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ABSTRACT

Guidelines for responding to immediate crisis situations in attendance and strategies for longterm prevention are presented in this handbook, which stresses the need for interagency cooperation. The handbook serves as a model for both content and process, with the ultimate aim of promoting an arena in which the most appropriate service delivery can occur. Following the introduction, the second section provides information about student nonattendance, examining causes and effects of absenteeism. Immediate considerations for schools are discussed next, such as the identification of truants, assessment, and development of a process model for intervention. Ways to utilize the service district attendance officer are described in the fourth section. The fifth section offers suggestions for developing attendance policy and procedure, and section 6 presents Oregon laws regarding attendance issues. A community resources index and one figure are included. (23 notes; 51 references) (LMI)

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A Handbook for

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Between

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Social Services

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## Volume 5: Attendance Services

Linn-Benton Education Service District
and
ERIC
Clearinghouse on Educational Management

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## IN

# C R I S I S

A Handbook for

Collaboration

Between

Schools and

Social Services

Volume 5: Attendance Services

Copublished by

Linn-Benton Educational Service District

Albany, Oregon

and

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## Mission of ERIC and the Clearinghouse

The Educational Resources Information Center (ERIC) is a national information system operated by the U.S. Department of Education. ERIC serves the educational community by disseminating research results and other resource information that can be used in developing more effective educational programs.

The ERIC Clearinghouse on Educational Management, one of several such units in the system, was established at the University of Oregon in 1966. The Clearinghouse and its companion units process research reports and journal articles for announcement in ERIC's index and abstract bulletins.

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Journal articles are announced in *Current Index to Journals in Education. CIJE* is also available in many libraries and can be ordered from Oryx Press, 4041 North Central at Indian School, Suite 200, Phoenix, Arizona 85012. Semiannual cumulations can be ordered separately.

Besides processing documents and journal articles, the Clearinghouse prepares bibliographies, literature reviews, monographs, and other interpretive research studies on topics in its educational area.


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*At-Risk Youth in Crisis: A Handbook for Collaboration Between Schools and Social Services*

Volumes planned for this series are listed below:

Volume 1: Introduction and Resources (February (1991)

Volume 2: Suicide (March 1991)

Volume 3: Child Abuse (May 1991)

Volume 4: Substance Abuse (June 1991)

Volume 5: Attendance Services (July 1992)

Volume 6: Teen Parenting (1992)

# FOREWORD

Children who are at risk of dropping out of school or at risk of emotional, psychological, or physical injury have a tremendous impact on the economic, social, and political well being of our communities. Educators and human service providers alike are currently being asked to provide a broader range of services to an increasing population of troubled children—often with a simultaneous decrease in available human and fiscal resources. Today's challenges require a comprehensive community response to a community need. Consequently, the need for community collaboration in providing an effective response has become overwhelmingly apparent.

The Linn-Benton Education Service District and the ERIC Clearinghouse on Educational Management are pleased to make this *At-Risk Youth in Crisis* Handbook Series available to school districts across the nation that want to respond to the need for collaboration in their own communities.

A local tragedy involving a youth suicide became the impetus for Linn-Benton Education Service District's leadership in spearheading a collaborative effort with local schools and community agencies to develop a handbook detailing acceptable, proven guidelines for appropriate interventions. The handbook contained clear procedures for schools and agencies to follow in relation to crisis situations occurring in schools. Decisions involving crisis situations necessitate shared responsibilities among school staff and human service providers in order to provide the most appropriate and effective response to all parties of interest.

In its original form, the document was titled *A Principal's Handbook: Serving At-Risk Students in Crisis.* The handbook, developed specifically for all the schools in Linn and Benton Counties, Oregon, was contained in a three-ring binder with four initial sections: Suicide, Child Abuse, Substance Abuse, and Community Resources. With the active support of Circuit Court Judges William O. Lewis and Frank O. Knight, all the major human service agencies in the two-county area participated in the development and implementation of the handbook. At the same time, six Youth Service Teams were formed in key areas, whereby two interagency county units were activated.

Benefits of this collaborative effort have included a clear delineation of school/agency responsibilities, realistic guidelines, improved relationships between schools and agencies, an increase in additional collaborative efforts, and, most importantly, a sense of community responsibility. And, of course, the child ultimately becomes the big winner.

Recognizing the success of this effort in Linn and Benton Counties, the ERIC Clearinghouse on Educational Management devised a plan to make the Handbook available to a national audience. First, the Clearinghouse asked the coordinators of the Linn-Benton project to write the overview of the program that is contained in Volume 1. This description covers why and how the Handbook was developed and advises other school districts on forging similar collaborative endeavors in their own communities.

Second, the Clearinghouse assembled the resource materials contained in the second section of that volume. These materials include two *ERIC Digests* and resume´s of journal articles and research reprorts, books, and papers in the ERIC database on collaboration between schools and social service agencies.

Subsequent volumes in the *At-Risk Youth in Crisis* Handbook Series deal with specific crisis issues: Suicide (Volume 2), Child Abuse (Volume 3), Substance Abuse (Volume 4), and Attendance Services (Volume 5). Another volume is currently being written on Teen Parenting.

We wholeheartedly support this important work and encourage other education and community agencies to engage in the valuable process of collaboration.

Gerald J. Bennett
*Superintendent*
*Linn-Benton Education Service District*

Philip K. Piele
*Professor and Director*
*ERIC Clearinghouse on Educational Management*

ATTENDANCE

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## CONTENTS


**Foreword** ..... v
**Acknowledgements** ..... viii
**Introduction** ..... 1
**Facts about Student Nonattendance** ..... 2
Compulsory Education ..... 2
Definition of Terms Related to Attendance ..... 2
Causes of Absenteeism ..... 3
Effects of Absenteeism ..... 5
**Immediate Considerations for Schools** ..... 7
Identification of Truants ..... 7
Assessment ..... 10
A Process Model for Intervention ..... 12
Designing Interventions to Address Assessment Results ..... 16
Documenting Intervention Efforts ..... 20
**Utilizing the Attendance Officer** ..... 22
Technical Assistance ..... 22
Informal Parent Contact ..... 22
Case Management ..... 22
Investigations ..... 23
**Attendance Policy and Procedure Development** ..... 33
Questions to Ask in Reviewing Attendance Policies and Procedures ..... 33
Sample Policies ..... 34
Policy Issues Regarding Grade Reduction and Credit Denial ..... 40
**Laws Regarding Attendance Issues** ..... 46
Compulsory Education ..... 46
Attendance Supervisor ..... 48
Alternative Education ..... 50
Children within Jurisdiction of Juvenile Court ..... 52
**Community Resources Index** ..... 53
Attendance Officer, Linn-Benton ESD ..... 53
Linn County Youth Service Teams ..... 54
Linn County District Attorney's Office ..... 54
Linn County Juvenile Department ..... 55
Children's Services Division ..... 56
Oregon Derpartment of Education ..... 56
**Footnotes** ..... 57
**Bibliography** ..... 58

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## ACKNOWLEDGEMENTS

The completion of the Attendance volume of the *At-Risk Youth in Crisis* Handbook has been a collaborative effort involving the Linn-Benton Education Service District, the Linn-Benton Attendance Advisory Board, the District Attorney's Offices of Linn and Benton Counties, Linn and Benton Branches of Children's Services Division, and the Juvenile Departments of Linn and Benton Counties.

Recognition must be given to the members of the Attendance Advisory Board who contributed their expertise, knowledge, and experience in the development of this text. The members included:

Phil Atkinson, Principal, Lebanon Middle School
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Finally, a very special thanks to Royal Harger, attendance officer for Linn-Benton ESD, for sharing his indepth knowledge and understanding of the reality surrounding students with attendance problems and for his continuing commitment and effort toward improving student school attendance.

Judi Edwards
*Principal's Handbook Project Coordinator*

# INTRODUCTION

The success of the school in carrying out its primary charge of educating and socializing students is contingent on students attending school regularly. In recognition of the importance of regular school attendance to quality education, attendance becomes a priority goal.

This volume of the *At-Risk Youth in Crisis* Handbook Series is devoted to assisting educators in their pursuit of improving school attendance and is based on the belief that it is within the capacity and authority of every school and district to address attendance issues and to reduce attendance problems. It provides guidelines for encouraging regular attendance of all students and suggests a continuum of effective interventions at the classroom, building, district, and community level for responding to students who choose to be truant. Prevention efforts and policy considerations are also included. The guidelines suggested are educationally sound, research based, and in compliance with legal mandates.

Student absenteeism is a shared responsibility and its impact is felt by all. Most problems of attendance are related to a combination of problems associated with the student, home, school, and community. As indicated by Allen-Meares,

> Truancy and excessive absenteeism influence an entire spectrum, from pupils whose education is affected, to teachers whose instruction is disrupted, principals who must account for empty desks, superintendents who must rely on attendance for state aid, attendance officers, home-school counselors and law enforcement officials who must contact the parents and locate absent students, judges who occasionally rule on truancy cases, and merchants who complain of daytime financial losses due to adolescent loitering and misbehavior.[1]

It naturally follows that solutions to absenteeism require shared responsibility among students, parents, educators, and community agency representatives. In order to benefit from what the school has to offer, students must be responsible for regular attendance and performance. In order for parents to support regular attendance, they must understand their roles and responsibilities for promoting regular attendance. In order for students to attend regularly, educators must develop policies and programs designed to encourage students to come and stay in school. In order for students and parents to assume their responsibilities with regard to attendance, community agency assistance is sometimes necessary.

Attendance improvement results from the concern and interest of individuals who pay attention and respond to absenteeism and from responsible educational programs that meet student needs. This attendance section is devoted to all individuals who recognize regular school attendance as being important for all young people.

# FACTS ABOUT STUDENT NON-ATTENDANCE

The impetus for compulsory school attendance was based on the needs of society rather than the needs of children. The underlying belief was that democracy required a citizenry that was educated in order to survive and be productive. Compulsory education was established to ensure the nation of a literate, enlightened, and productive population to perpetuate the fundamental democratic ideals of the political and cultural institutions of our society. It also encompassed the notion that leaving the education of the future citizens of the United States solely up to the family was both impractical and inefficient.

## COMPULSORY EDUCATION

The implied powers in the Bill of Rights give the authority to the states to require that all children be educated. The rationale for state control of education is based on the notion that states need good citizens for self-protection, and in order to have good citizens, they must be educated. In other words, the rationale for state control of education is based on the notion that education is a duty imposed on individuals for the public good rather than on the belief that education is a right guaranteed to individuals.[2]

Oregon's authority to require education of children is found in ORS 339.010. It states that "except as provided in ORS 339.030, all children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school of the school district in which the child resides." Oregon law also stipulates in ORS 339.020, that "except as provided in ORS 339.030, every person having control of any child between the ages of 7 and 18 years who has not completed the 12th grade is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term." For exceptions to these requirements and for other state laws regarding attendance, refer to the section on Laws Regarding Attendance Issues on pages 46 through 49.

## DEFINITION OF TERMS RELATED TO ATTENDANCE

*Absenteeism* is the term used to include all excused and unexcused forms of nonattendance.

Almost all school systems have some type of procedure for determining whether a student's absence is classified as excused or unexcused. According to ORS.065 (2), an *excused absence* is determined by a principal or teacher "if the absence is caused by the pupil's sickness, by the sickness of some member of the pupil's family or by an emergency." The statute also allows the principal or teacher the discretion to excuse absences for other reasons "where satisfactory arrangements are made in advance of the absence." ORS 339.065 (3) also allows the district school board the discretion of excusing a pupil from attendance "for a period not to exceed five days in a term of at least six months." An *unexcused absence* generally refers to absence from school without parental or school consent.

The procedures for distinguishing excused from unexcused absences vary from school to school. Differences are apparent among schools in such matters as who is the recipient of the excuse, the deadlines allowed for excuses to be received following the absence, and how much effort is made to contact parents when excuses are not promptly made.

A student is considered *truant* if he or she is absent from school without good reason or without permission from home or school.[3] In other words, a student with an unexcused absence is considered truant. *Chronic truancy* is defined as "excessive unexcused absences." The specific number of unexcused absences required before a student is labeled a "chronic truant" varies according to the laws of each state.

While truancy is mentioned in Oregon law and administrative rules, it is not defined. Instead, the terms "*irregular attendance*" and "*erratic attendance*" are used and defined. "*Irregular attendance,*" as defined in ORS 339.065 (1), is "eight unexcused one-half day absences in any four-week period during which the school is in session." With regard to Oregon's alternative education mandates, the term "*erratic attendance*" found in Oregon Administrative Rule 581-21-071 refers to "a student who is frequently absent to the degree that he/she is not benefiting from the educational program."

## CAUSES OF ABSENTEEISM

While some parents tend to blame the school and some educators tend to blame parents for student absences, chronic absenteeism is a student-family-school-community problem. As such, improving attendance demands viewing absenteeism as involving the interactional relationship and interrelatedness of each of the determinants rather than viewing it as the result of a simple causal problem. The traditional view that proposes a linear cause of chronic absenteeism assumes that something wrong in one area—such as student, school, or community—causes the truancy problem.[4] Instead, we must use an ecological perspective that emphasizes the reciprocal nature of the relationships between the student, family, school, and community. Only then will our interventions be effective.

While this interactional relationship model is recommended, it is, nevertheless, helpful to explore various linear perspectives as they all illuminate particular causes of absenteeism; hence, the use of any of these perspectives leads to a specific type of intervention. These perspectives can be explored by focusing on individual student and family variables, school variables, and community variables.

### Linear Perspectives

Educators and psychologists frequently are most concerned with absenteeism as it relates to individual variables of the student or the student's family.

#### *Student and Family Variables*

One perspective views school absence as an expression of nonconformist behavior, rebellion against authority figures, and a generally inadequate socialization of the student and/or the student's family.[5] This perspective would support interventions focused on the student or family and could either take the form of punishment or rehabilitation. Either way, it would dictate viewing student absenteeism as a discipline problem. Interventions might be designed to punish the student with suspension, detention, or the like, or to punish the parents by taking them to court for abdicating their responsibility in relation to compulsory attendance laws.

Another perspective, often termed the behaviorist point of view, believes that students choose not to attend school because it is either not rewarding or some other activity incompatible with attending school is more rewarding. This same perspective could be used with parents as well. For some families, sending a child to school may have more costs than benefits. For example,

families may receive economic benefit in having one sibling care for another so the parent can work. In other families, "sending a child to school results in a loss of companionship and an increase in concern about the child's welfare."[6] Counseling might be the intervention of choice with this perspective to help the student and/or parents improve their attitude about school and to discern family dynamics that are contributing to the absenteeism. A behavior modification plan may also be utilized structuring positive and negative consequences to reinforce attendance while making nonattendance less rewarding for both the student and the student's parents.

***School Variables***

One perspective related to school variables focuses on the influence of peer groups and student subcultures as the cause of chronic absenteeism. This perspective would hypothesize that if a student body population values school attendance, then rates of absence are likely to be high. Also, students who belong to cliques whose members don't value school attendance will have high absentee rates. Interventions from utilizing this perspective might attempt to encourage peer attitudes that favor school attendance. With such an approach, efforts might be directed toward increasing school spirit through extracurricular activities or competitive athletics.[7]

Another perspective related to school variables utilizes the concept of alienation to explain absenteeism. With this frame of reference, a lack of student participation in school governance may contribute to nonattendance. Interventions designed to increase student involvement and ownership in school governance or increase student input into the design of curriculum would logically follow from such an alienation perspective.

Numerous studies have demonstrated that school, classroom, and teacher characteristics have an impact on student attendance. Rutter and Associates conducted a study of characteristics in a wide range of schools and showed that schools with the highest level of attendance had the following characteristics:

1. gave homework often
2. had high expectations for student achievement
3. displayed children's work on classroom walls
4. planned the curriculum by group rather than by classroom
5. had higher total teaching time and fewer auxiliary activities[8]

Another study demonstrated that attendance is higher in classes when teachers:

1. arrive promptly
2. frequently praise good work and behavior
3. interact with the class as a whole
4. minimize competition
5. offer support for learning
6. avoid corporal punishment[9]

***Community Variables***

"Community expectations, economic factors and the breakdown of social institutions" are offered as a few of the community variables that cause chronic absenteeism.[10] Interventions with this perspective are usually based

on a collaboration model between schools and community agencies with an emphasis on social service agency interventions.

### Discrepancy Between Student and Staff Perceptions of Truancy

Ziesemel conducted a survey of students and staff in terms of their perceptions of reasons for truancy.[11] Students cited boredom and loss of interest in school, problems with school courses, suspensions, and relationships with teachers and school staff as among their problem areas leading to truancy. Although the students in the study also experienced a variety of problems in all areas of life, including difficulty with the law and stressful family situations, they placed school problems at the head of the list for causing truant behavior. School staff, on the other hand, viewed truancy more in terms of the student's individual problems and his or her relationship with home and peers than in terms of the interaction between the student and school environment. With school staff perceiving outside factors primarily responsible for truancy, the solutions to the truancy problem would also lie outside the school.

The most common reasons cited for absenteeism are as follows:

- Illness
- Dislike or boredom with school
- Social adjustment problems
- Family or personal business
- Influence of friends
- Academic problems
- Perceptions that school authorities and others lack concern and/or authority for enforcing attendance laws
- Lack of parent concern or control
- Factors such as learning difficulties, gang and peer pressure, and class room environment[12]

## EFFECTS OF ABSENTEEISM

Recognizing the importance of regular school attendance is necessary for everyone associated with the educational process—students, parents, school staff, and the community. Absenteeism affects all of these participants.

### Effects on Students

Regular school attendance is necessary to receive maximum benefit from the educational program. Students who are frequently absent are likely to fall so far behind classmates that catching up becomes increasingly impossible, thus leading to more absenteeism. Students not only fall behind in their assigned work and lose out on learning important concepts and relationships that are precursors to understanding subjects, but they also miss important socialization processes as well. Absenteeism has a direct, negative effect on student achievement, promotion, graduation, self-esteem, and employment potential. Poor grades and being retained are two likely consequences of nonattendance, and both can be used to predict dropout potential before graduation. According to one truant officer in a large metropolitan area, students who drop out before graduating from high school often have been "fading out" since the elementary grades.[13]

Robbins and Ratcliff (1980) documented the detrimental long-term effects of truancy by comparing nontruants with chronic truants. Their findings are summarized as follows:

1. Truancy during elementary school was a strong predictor of truancy during high school.
2. There was a high correlation between truancy and deviant behavior during adolescence.
3. Of those who began their truancy in elementary school and continued to be truant in high school, 75% failed to graduate.
4. As adults, the truant group earned less money, exhibited more deviant behavior, and had more psychological problems than nontruants.[14]

**Effects on Family**

Children's nonattendance can impact family life. Sometimes children stay home upon parent request to take care of younger siblings so that the parent can work. Most of the time, however, student absences have detrimental effects on the family. With most households nowadays consisting of single parents or households where both parents work, a child's nonattendance can mean lost work days for a parent, no supervision for the child, or extra expenses for child care. Due to the compulsory education law, chronic nonattendance by a child often results in the parent experiencing conflict with social and educational services that sometimes leads to threat of or actual court action.

**Effects on Schools**

High rates of absenteeism have an impact on the entire school population. For teachers, absenteeism significantly compounds teaching tasks because sporadic attenders often need more individual attention and assistance to catch up with the rest of the class. For administrators, an exorbitant amount of hours are spent enforcing attendance policies. Such energy directed toward irregular attendance takes away from other more worthwhile tasks. For the district, state school support is linked to student attendance; high rates of absenteeism reduce school funds and ultimately reduce available resources for all students.

**Effects on Communities**

One of the short-term effects of truancy on the community is an increase in criminal daytime activity. The longer-term effects of excessive school nonattendance relate to economic, political, and social factors. Barth addresses these effects:

> Children who learn to avoid their first work place may not learn to attend other work sites regularly. Nonattending students who turn to delinquency and crime after they are grown and without the basic competencies of life also cause trouble for communities.[15]

Birman and Natriello (1978) point out that "widespread unauthorized absence threatens the legitimacy of schools as cultural institutions."[16] In addition, truancy is illegal and when compulsory education laws are not enforced, the result can be a generalized disrespect for the law by community members.

# IMMEDIATE CONSIDERATIONS FOR SCHOOLS

## IDENTIFICATION OF TRUANTS

Identifying patterns of attendance, potential truants, and dropouts are key steps in the process of developing a comprehensive intervention plan. Intervention plans should encompass legal and social issues as well as the classroom, the home, and the community.

The following is a partial list of characteristics common to potential truants and dropouts found in Garman and Brown's *The School Attendance Handbook*.[17] Students who display a combination of the traits listed below are most likely to be truant or to leave school before graduation. Garman and Brown also point out that future attendance behaviors are often evident by the third grade.

### Characteristics of Potential Truants and Dropouts

Academic Traits

- Is a poor reader
- Has trouble with language
- Has poor study habits
- Regularly fails to turn in homework
- Consistently does not complete assignments
- Gets failing marks
- Repeats grades

Other School-Related Traits

- Dislikes school
- Feels education is a "waste of time"
- Is often absent
- Is present in body but not in mind
- Is uncomfortable around teachers
- Lacks respect for teachers
- Dislikes one or more teachers
- Feels teachers are insensitive to student needs or interests
- Is frequently given detention
- Has a history of suspension or expulsion
- Seldom or never participates in extracurricular activities
- Is the "class clown"
- Acts rebellious or defiant
- Makes fun of the material being presented
- Tells lies regularly
- Has little regard for school property
- Doesn't listen
- Interrupts frequently
- Has a short attention span
- Copies the work of other students
- Frequently complains
- Has trouble following directions
- Is highly resentful of criticism

Social-Emotional Traits

- Has a poor self-image
- Lacks friends
- Has low aspirations
- Has emotional problems
- Has behavioral problems
- Gives up easily
- Is depressed
- Is insecure
- Lacks motivation
- Lacks social competency
- Is a frequent discipline problem
- Has drug or alcohol problems
- Exhibits delinquent behavior
- Is physically abusive
- Is verbally abusive
- Is easily led into undesirable behaviors
- Is severely socially deprived
- Is a gang member

General Traits

- Has parents with little education
- Lives in family where education is not a priority
- Experiences a history of family problems
- Lives in family with severely limited finances
- Has parent or parents who are overly dependent on children
- Gets little nurturing at home
- Has siblings who have dropped out
- Suffers from ill health
- Has acute physical problem
- Has an unusual interest in making money quickly
- Has poor eating habits
- Has disrupted sleeping patterns
- Suffers from abuse or neglect
- Is pregnant or has a child
- Is a recent immigrant
- Is the oldest child in a very poor family

**Patterns of Attendance and Nonattendance**

When daily attendance data is plotted on a graph, weekly attendance patterns become evident. Wednesdays and Thursdays and days of important tests and popular school activities have the lowest absentee rates. Mondays and Fridays have the highest absenteeism.

Levanto[18] conducted a study of high school absenteeism and found the following patterns:

- Boys in the first three years of high school generally have lower rates of

absenteeism than girls at the same grade level. Boys in the senior year of high school have a slightly higher rate of absenteeism than girls in the same class.

- With each succeeding class and age group, from the ninth grade through the twelfth, absenteeism increased.
- Students who lived with both parents generally had a lower rate of absenteeism than those who lived with one parent or guardian.
- Students in the college preparatory program generally had the lowest rate of absenteeism followed by students in business education and the general program, respectively.
- For senior students in the study, absenteeism generally is lowest for students with the highest IQ scores.
- For senior students, absenteeism generally is lowest for students with the highest class ranks in academic achievement.
- Students who participated in both school-sponsored athletic and non-athletic activities generally have lower rates of absenteeism than those who participate in one or none of these activities.

**Comparing Truants with Other Nonattenders**

Galloway[19] studied five- to fifteen-year-old students with excessive absences. He divided the groups into two categories: truants and other absentees. He defined *truants* as those students who were generally absent without parental knowledge. He found that the truants had significantly lower achievement scores, were less concerned about their academic future, were more likely to lie, steal, and wander from home on evenings and weekends, and were highly influenced by peers. The study found the other nonattenders to be significantly more concerned about their academic future and their parents' health, and they experienced anxiety about leaving home.

Schultz[20] reviewed the research and differentiated truants from other nonattenders such as children with school phobia by the following factors:

1. School phobics' nonattendance is frequently maintained by their parents' behavior. Truants are usually absent without the consent of their parents.
2. School phobics are characterized by generalized separation anxiety, including fear of school or school situations. Truants exhibit no such anxiety.
3. School phobics usually remain at home when not attending school. Truants more often leave home, and may engage in delinquent or other antisocial activity while not attending school.
4. Truants, as a group, are more likely to score below other nonattenders on measures of school achievement.

**Monitoring School Attendance**

Tracking student absences is a key element in identifying potential truants and dropouts. In evaluating student absences it is important to remember that, in many cases, absence is the symptom of a problem and not the problem itself. Once a student is "flagged" for poor attendance, a systematic evaluation (using Student Attendance Assessment Form on page 13) is needed to determine the underlying factors contributing to irregular attendance.

Attendance tracking is more complex at the high school level than at the middle school level. The middle school process is more complex than the elementary process. At the elementary school and to some extent at the

middle school level, students are more responsible and will check in with the office when coming to school late or leaving early. With larger schools, open campuses, access to cars, and greater maturity, high school students are less accountable for leaving and returning to school than younger students. While recording attendance by half-days as required by the Oregon Department of Education is acceptable for younger students, a period attendance process is suggested for older students.

Tracking period attendance requires the use of a computer system and a systematic attendance collection procedure. The requirements of the specific computer attendance program and the personnel available to work with attendance determine the procedures most appropriate for a building. Once attendance data are collected in the office, routine notification to teachers, counselors, assistant principals, and parents should occur. This notification should show absentee patterns by period, by day of the week, etc. Allowing counselors and assistant principals to have online computer access to student attendance records greatly enhances their ability to work with individual student absence problems. Having a computer terminal on their desk allows the counselor and assistant principal instant access to accurate, up-to-date information without reams of paper files.

The complex process of tracking attendance has many players. The attendance data are generated in the classroom by the teacher, entered into a computer in the office, and transmitted to teachers, parents, counselors, and assistant principals. This process should be carefully designed to take into account the needs of the students, the structure of the school, and the personnel resources available to work with absence problems. A final reminder: monitoring attendance is monitoring for a symptom. Further assessment will determine the underlying barriers to regular school attendance.

## Involving Parents

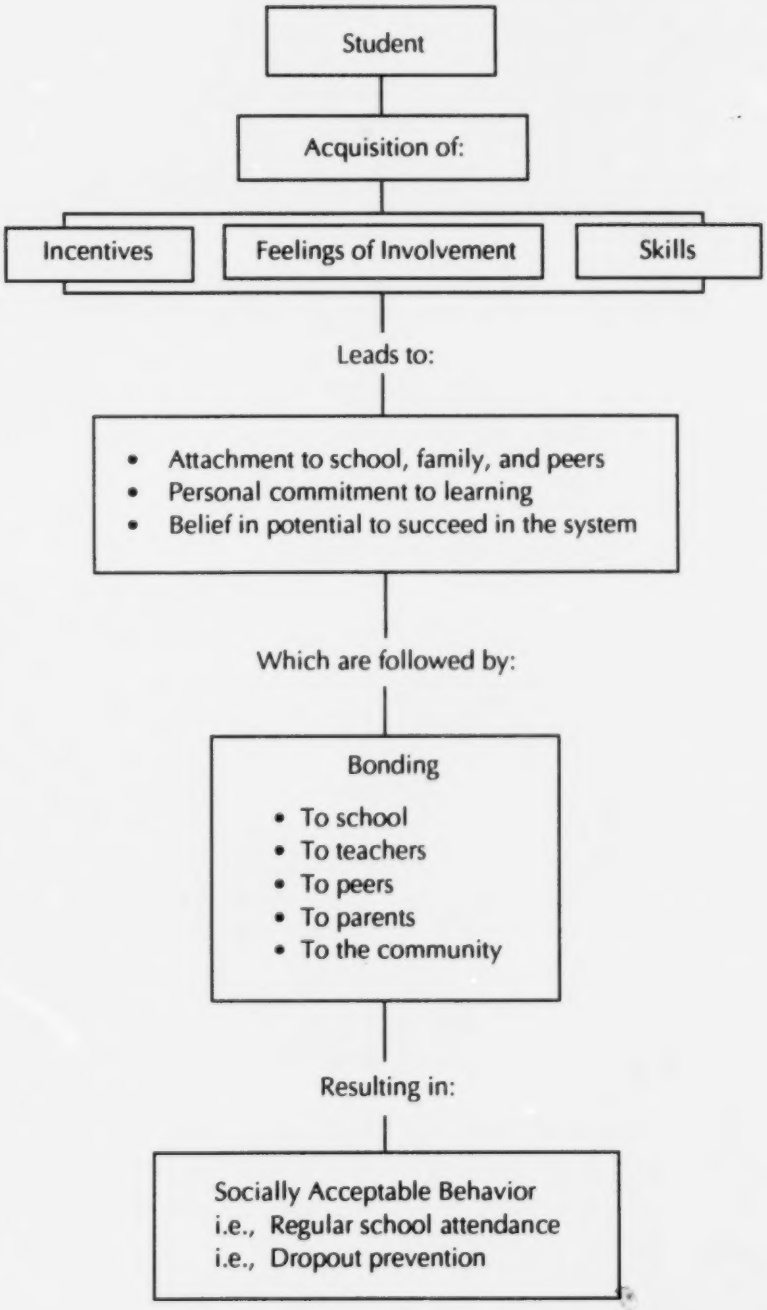
Direct teacher involvement with student absenteeism is necessary. The bond formed between a teacher and student is a critical link between the student and school. If teachers are notified of student attendance patterns, the teacher can have individual contact with the student and/or the parents about absence problems.

Forming a partnership with parents is important for their child's success in school. Informing parents about absences and seeking their assistance will help keep students in school. If parents do not notify the school that their child will be absent from school, the school should notify the family. This can be done with parent volunteers calling each home or by an automated computer calling system. Care should be taken to recognize family structures in which parents may only be home in the evenings. Mailing letters home to parents with detailed period absentee reports may be necessary for some students. Attendance data can also be reported on a regular basis with report cards.

## ASSESSMENT

Prior to discussing the topic of assessment of barriers to regular attendance, it is valuable to understand what factors contribute to regular school attendance. Most students choose to attend school on a regular basis. The Northwest Regional Educational Laboratory developed the model displayed graphically on the next page to clarify the bonding process of students to school.

## THE BONDING PROCESS




Source: Adapted from Northwest Regional Educational Laboratory[21]

This model holds implications for assessing the barriers to regular attendance as well as for designing interventions to encourage regular school attendance. A student who is disengaged from the school, who is not experiencing any success in skill development, and who finds attending school a negative experience is most likely going to choose not to attend. Factors within the student, the home, the school and the community all interact to either support or provide barriers to the student's feelings of involvement, skill development, and positive experiences from attending school.

It is recommended that an assessment of barriers to regular school attendance be completed for each student identified as having an attendance problem. The Student Attendance Assessment Form on page 13 is designed for that purpose. The following section on intervention contains specific recommendations for responding to barriers identified in the student assessment. In that the school and the community can also provide barriers to student attendance, the School/Community Attendance Assessment Form on page 14 can be used to review school and community factors that may be interfering with encouragement of regular school attendance.

## A PROCESS MODEL FOR INTERVENTION

To improve student attendance, it is recommended that attendance policies include clarification of the school's process for increasing intensive interventions for nonattending students. It is customary for schools to clarify disciplinary responses for student nonattendance in their policies; however, clarification of the school's intervention process is often omitted. Coupling disciplinary responses with positive intervention strategies enhances the effectiveness of encouraging regular school attendance.

The following suggested process for providing increasingly intensive intervention strategies involves three levels:

Level 1: Classroom Interventions

Level 2: Development of a Comprehensive Plan

Level 3: Pursuing Possible Legal Interventions

Each progressive level builds on the preceding one and entails increasing the amount of resources to intervene.

## Level I: Classroom Interventions

A. Teacher records and monitors attendance of all students
B. Teacher and student make contact when pattern of nonattendance becomes apparent
C. Teacher develops informal plan to encourage regular attendance through intervention and modification as needed.
D. Parent is contacted or notified of attendance problem. (This is usually done by the classroom teacher at the elementary level or by a building level staff person at the middle/high school level.)
E. Follow classroom and building attendance policy and procedures.

## STUDENT ATTENDANCE ASSESSMENT FORM

Student Name _____ Date _____

Staff Involved in Assessment _____

Attendance Data (attach data or describe) _____

Check Factors Contributing to Irregular Attendance

1. Minimal to no academic progress
   - __ A. Learning style dissonance
   - __ B. Ability level dissonance (i.e., TAG, slow learner)
   - __ C. Handicapping condition (specify)
   - __ D. Low motivation
   - __ E. Other
2. Alienation from the school environment
   - __ A. Poor peer relationships
   - __ B. Poor adult relationships
   - __ C. Withdrawn from school activities
   - __ D. Social skill deficits
   - __ E. Other
3. Lack of incentives for attending school and/or competing interests (i.e., working, parenting) _____
4. Environmental factors
   - __ A. Parent lacks knowledge of child's absences
   - __ B. Parental attitude toward school/school attendance
   - __ C. Family crisis list (specify)
   - __ D. Family economic status
     - a. Unable to provide adequate clothing, etc.
     - b. Children's earnings are vital to the family's economy
     - c. Child care provisions
     - d. Other
5. Health issues
   - __ A. Communicable disease
   - __ B. Substance abuse
   - __ C. Pregnancy
   - __ D. Other

6. School phobia (an emotional disturbance involving anxiety about the school situation and leaving home that leads to prolonged absences from school): _____

_____

7. Other factors/comments _____

## SCHOOL/COMMUNITY ATTENDANCE ASSESSMENT FORM

**I. School Barriers**

A. Practices that discourage a student feeling involved in the school
- __1. Retention/social promotion
- __2. Suspension/expulsion
- __3. Subject-oriented rather than pupil-oriented teachers
- __4. High teacher absences
- __5. Policies that prohibit participation in extracurricular activities except those who are succeeding academically

B. Inflexible academic programs to meet the unique educational needs of all students
- __1. Irrelevant curriculum
- __2. Inappropriate educational placement
- __3. Absence of training students about school transitions

C. Lack of incentives for attending school
- __1. Negative school or classroom environment
- __2. Minimal or no social or academic success for student
- __3. Attendance policy focuses on negative consequences for absences and no positive consequences for regular attendance

D. Other school barriers
- __1. Inadequate reporting/recording and followup
- __2. Inconsistent enforcement of attendance policy

**II. Community Barriers**

A. Lack of adequate resources to enforce Compulsory Attendance Laws
B. Street gangs
C. Peer influence supporting truancy
D. Lack of collaboration/communication between child-serving agencies

**Level 2: Development of a Comprehensive Intervention Plan**

The development of a comprehensive intervention plan is initiated at the elementary level by a classroom teacher who wants assistance in developing a plan to improve attendance or at the middle/high school level by a building process designed to identify students who have erratic attendance for which a coordinated plan is needed.

The building problem-solving process is utilized to:

A. Assess factors contributing to irregular attendance

B. Develop a written plan to improve attendance utilizing appropriate resources. The plans should include provisions for:

- Interventions to decrease barriers
- Parent communication/contact
- Student contact to review progress
- Utilization of building/district/community resources, as appropriate
- Identification of a coordinator to oversee a plan

C. Make referrals as appropriate to:

Building Resources

- School Counselor
- Substance abuse specialist
- At-risk coordinator
- Building administrator
- Other

District Resources

- High school options specialist
- Behavior management consultant
- Attendance officer for informal contact or case management services (see pages 22-24 for further clarification)
- Psychologist
- Other

Community Resources

- Youth Services Team
- Juvenile Department
- CSD
- Health Department
- Probation and Parole
- Other

D. Determine need for special education/alternative education

1. A determination is made as to whether the student needs to be evaluated for special education eligibility.
   a. If student is referred for evaluation and is subsequently found eligible for special education by the Multi-Disciplinary Team (MDT), an individualized educational plan (IEP) is developed and attendance may be a goal written into the IEP.

b. If a determination is made that the student does not need an evaluation for special education or if the MDT finds the student ineligible for special education, then the need for alternative education is considered.

2. A determination is made as to whether the student's attendance pattern is so erratic that the student isn't benefitting from the current educational program. If it is determined that the student isn't benefiting, at least two alternative education options must be developed and offered.

E. Above plan is implemented and revised as needed

**Level 3: Pursuing Possible Legal Interventions**

A. School maintains planning and followup processes developed at Level 2, including ongoing student and parent involvement.

B. Request attendance officer to begin formal legal procedures against parents. (Student Attendance Assessment Form [see page 13] and Attendance Intervention Summary Form [see page 21] to accompany the Attendance Officer Referral Form [see page 26])

1. Attendance officer, upon receipt of referral, will intervene through communication with parents and the school. (See pages 23 through 31 for details of these interventions.)
2. If above interventions are unsuccessful in resolving the attendance issue, the attendance officer will send a formal truancy notice to the parents.
3. If there are positive results, continued monitoring will occur. If the formal truancy notice results in no resolution, the attendance officer will refer to the Juvenile Department regarding "out of parental control" or "conditions and circumstances" issues or will write a report and file a petition with the district attorney's office if negligence is assumed. Once a criminal complaint is filed, the attendance officer is to have no further contact with the family.

## DESIGNING INTERVENTIONS TO ADDRESS ASSESSMENT RESULTS

Intervention strategies used by classroom teachers, building and district staff, and community agency staff are all designed to encourage regular attendance by reducing one or more of the factors that contribute to irregular attendance (academic, social, lack of incentives, and outside environmental factors).

*Academic*: interventions are focused on acquisition of skills to improve academic success.

*Social*: interventions are focused on increasing positive social interaction and increasing student involvement in school.

*Lack of incentives*: interventions focus on increasing the positive consequences for regular school attendance.

*Outside environmental factors*: interventions are focused on increasing the school's ability to meet students' unique needs and on decreasing outside factors that impede regular school attendance (i.e., home, health, other).

The following list of options, while not all inclusive, provides some things to consider in developing a comprehensive intervention plan to reduce specific

barriers identified through the assessment process. While some interventions are only applicable at the elementary or secondary levels, many of them can be implemented in all classrooms or schools.

**Barrier 1: Minimal to No Academic Progress**

CLASSROOM INTERVENTIONS

- Test chronic truants for placement at appropriate skill level
- Active problem solving in regard to difficulties in learning basic skills
- Give intensive remediation in response to poor test results
- Adopt personal learning plans
- Use learning activities to motivate student with diverse learning style
- Change curriculum to embrace needs, abilities, and interests of student
- Use a variety of teaching methods
- Set up a reading lab
- Use competency-based curricula
- Use independent study
- Provide more intensive treatment of topics and practice of skills
- Provide more time for individualized attention and personalized problem solving
- Carefully monitor basic skill acquisition
- Individualize classroom instruction
- Establish achievable standards for student with learning difficulties
- Provide tutorial service for student in need of extra help
- Refer to counselors for academic help
- Increase opportunities for academic success
- Reward any and all improvement!

BUILDING INTERVENTIONS

- Work through homerooms (check in with counselor)
- Change classes
- Use homeroom program (teacher assigned to provide students with extra support)
- Provide alternative educational programs for chronic truants (small academic load, self-paced study, shorter school day, monitoring)
- Offer a two-hour afterschool study session
- Group truants with coordinator to supervise and monitor student progress
- Require make-up sessions for absences

**Barrier 2: Alienation from the School Environment**

CLASSROOM INTERVENTIONS

- Pair students with good and poor attendance as partners (apply positive peer pressure to motivate the student with poor attedance to attend school)
- Involve students in developing codes of conduct
- Team two regularly attending students with one frequently absent student (earn early recess if all three attend weekly)
- Contact truants personally
- Find ways to boost students' self-image
- Help socially isolated student learn to develop and maintain friendships
- Increase "acquaintance" activities

- Assist student in feeling valued as class member

BUILDING INTERVENTIONS

- Establish mentoring program
- Create attendance clubs—setting group goals for attendance improvement
- Involve truants in group counseling
- Create alternatives to suspension
- Use cross-age/peer tutoring (absent student given responsible job tutoring handicapped student)
- Increase student's involvement in a spectrum of school decisions and activities
- Pair chronically truant students with teacher volunteers who can work directly with the students to improve their attendance
- Offer more incentives for troubled students to participate in programs or afterschool activities that would motivate them to attend school
- Help student feel an important part of school
- Design a "buddy system" that matches one concerned staff member with one student who is experiencing school-related difficulties
- Encourage, invite, even assign students to participate in at least one extracurricular school activity
- Hold group problem-solving sessions designed to provide an atmosphere of trust and support
- Transfer student to another high school

**Barrier 3: Lack of Incentives and/or Competing Interests**

CLASSROOM INTERVENTIONS

- "Buddies" deliver social and material reinforcers
- Customize a behavioral program reinforcing attendance
- Draft attendance contract
- Create a classroom reward system
- Use group competition (for best or most improved attendance)
- Add bonus points to grade for attendance
- Create attendance lottery (students receive tickets for each three-week period of perfect attendance or attendance improvement)
- Reward improvement in attendance
- Waive midterm or final exams for perfect or near-perfect attendance
- Hold monthly party times for attendance (workroom to make up work for those not involved in party)
- Use a group approach reward system to reduce truancy

BUILDING INTERVENTIONS

- Use flexible scheduling so students can stay in school while meeting family and job responsibilities (i.e., extending school hours into the evening, using flex-time for students and staff, creating more summer programs and having an "open entry, open exit" policy)
- Extend amount of time allowed to graduate
- Expand use of summer programs
- Establish continuation high schools to liberalize the use of time (competency-based curricula, independent study)

- Use year-round schools to expand the use of time
- Begin night school
- Extend classroom periods
- Implement an independent study project that has a community-based orientation
- Principal offers public praise for attendance
- Freeze grades
- Use sign-in system
- Offer employment as an incentive for potential dropout to remain in school

**Barrier 4: Environmental Factors**

- Socially reinforce parents via phone for student attendance improvement
- Meet with family and student at school
- Parent follows student schedule
- Schedule home visits
- Provide wakeup calls to students
- Provide parent education
  - Parent workshops (teach strategies to get children to school, the educational consequences of poor attendance, and signs of disengagement from school and ways to respond to them)
  - Parent workshops (parental educational attainment, the consequences of dropping out, alternatives in school programming). These workshops present opportunities for parents to develop a commitment to education by sharing information about resources for adult basic education.
- Assist family in accessing appropriate community resources for help
- Communicate to parents about absences
  - Provide families with daily notes reporting on attendance
  - Ask parents to call school daily to get attendance
  - Make daily calls on all absentees
  - Use computer-assisted telecommunication device to call homes when absences occur
  - Praise parents for taking responsibility in seeing that their children attended school
  - Use phone calls, letters
  - Support activities that attract parents to school
  - Improve and speed up communication with parents whose children are skipping school
  - Establish support groups for parents of troublesome children who are chronically truant
  - Make sure parents who are recent immigrants understand the compulsory attendance laws and policies
- Use teen parent programs
- Offer child care at school
- Assist teen parent in exploring alternative education programs
- Improve transportation system
- Refer to attendance officer to pursue court action

**Barrier 5: Health Issues**

- Provide student assistance programs
- Refer to drug and alcohol treatment center, Ala-Teen
- Identify student as eligible for special education under "other health impaired" and develop an individualized educational plan
- Refer to public health nurse
- Assist family in accessing appropriate community resources
- Refer to local child protection team regarding chronic health problems, such as head lice

**Barrier 6: School Phobia**

- Refer to school counselor/child development specialist so that a determination can be made if student may be school phobic. (Distinguishing characteristics of school phobic students and truant students can be found on page 9.)
- Once identified as possibly school phobic, share concerns about the student's absences with parent(s) and encourage them to seek professional evaluation and subsequent treatment if needed.
- If parents are unwilling to seek professional evaluation and/or treatment, refer to the local Youth Service Team for assistance. If parent will not consent to the YST referral, consult with the local mental health department or refer to the YST on a generic basis (no identifiable information is given). Either option may provide assistance as to how to encourage the parents to seek help.
- While trying to obtain professional help for the student, attempt to make school attendance more rewarding and staying at home less gratifying. This can be accomplished by developing an attendance contract with the student.
- If above actions are unsuccessful, refer to the attendance officer to pursue possible legal intervention.

## DOCUMENTING INTERVENTION EFFORTS

As mentioned previously, effective efforts to improve student attendance include:

- Student contact
- Parent contact
- An assessment of the factors contributing to irregular attendance
- School interventions designed to reduce barriers to regular attendance
- Referrals to appropriate resources, as needed, to assist with the intervention process

The following "Attendance Intervention Summary Form" provides a format for school staff to use in documenting their intervention efforts.

The process of documenting school interventions has a number of advantages. It can assist school staff in determining what has already been tried and what may be an appropriate next intervention step. In reviewing documented interventions over time, it may assist school staff in upgrading their practices with regard to encouraging regular school attendance. Also, such documentation can reduce school liability by demonstrating a school's effort in providing an appropriate educational program for students.

The completion of this form is required prior to the attendance officer pursuing legal action against a parent/guardian for failing to comply with the compulsory education law.

## ATTENDANCE INTERVENTION SUMMARY FORM

Student Name _____ Date _____

Summary of student contact to encourage regular attendance:

Summary of parent contact to encourage regular student attendance:

List interventions tried for each factor identified as contributing to irregular attendance in the assessment: (No academic progress, alienation from school environment, lack incentives, environmental factors, health issues, school phobia, other.)

List referrals made to building, district, and community resources for assistance with intervention process:

Identify any above interventions that have been effective:

Submitted by _____ Title _____

School _____

_____

# UTILIZING THE ATTENDANCE OFFICER

The attendance officer of Linn-Benton Education Service District provides four categories of service to constituent school districts: technical assistance, informal parent contact, case management, and investigations leading to legal intervention.

## TECHNICAL ASSISTANCE

The attendance officer provides consultation to school staff in relation to the following:

- Attendance laws
- Best practices with regard to encouraging regular school attendance
- Legal procedures in truancy cases
- Procedures involving exemptions from compulsory attendance such as home schooling.

## INFORMAL PARENT CONTACT

The attendance officer, upon school request, contacts parent(s) or guardian(s) of nonattending students via letter. The letter informs them of the school's concern and referral to the attendance officer. It also outlines the attendance laws and clarifies the expectation of their compliance with such laws. (See page 27 for a sample letter.) Copies of the letter are sent to the referring school and/or agency.

### When to Request Informal Services

School staff may want to consider referring to the attendance officer for such informal contact when their efforts at resolving the attendance problem with the parent(s)/guardian(s) have not been successful. Receipt of a letter from the attendance officer may be enough of an outside intervention to have a positive impact on the student's school attendance.

It is advisable for school staff to request such informal services from the attendance officer in situations where a formal truancy case is anticipated to occur. The letters from the attendance officer become an important and necessary part of the documentation needed in formal truancy cases.

School staff may also want to consider informal services at the time a student is dropped from the roles due to the "10-day drop rule."

### How to Refer

The school sends to the attendance officer the completed referral form (see page 26) with the box marked "informal services" checked along with the student's attendance printout attached. The referral should include brief information about the school's concern or problem that needs resolution.

## CASE MANAGEMENT

The attendance officer provides case management services for those students referred through the Youth Service Team who are determined by the team to have a truancy problem. The attendance officer will assume leadership for coordination and collaboration of services in these cases. Case management services may include assessment, planning, linkage/outreach, monitoring, and advocacy/support. These services will also involve consulting with various school personnel regarding their intervention plans.

### When to Refer

School staff may want to consider referal to case management services when truancy is seen as the primary problem and when a closely monitored, coordinated effort between school and agencies is needed to bring about change.

School staff are not required to obtain case management services prior to pursuing legal interventions. However, they may find such services advantageous in those situations where a formal truancy case may not currently be an option.

**How to Refer**

The school staff refers the student to the local Youth Service Team and requests that case management services from the attendance officer be part of the plan for the referred student. For information on Youth Services Teams, refer to page 56. The YST will determine if the student has truancy as the primary presenting problem and if case management from the attendance officer is recommended. If the YST recommends such case management services, the school will complete the attendance officer Referral Form. As specified on the form, attendance data, the student attendance assessment form, and the intervention summary form are attached to this referral.

## INVESTIGATIONS

Following a review of the referral, the attendance officer will issue a Formal Notice of Truancy to the parent(s)/guardian(s) via registered/certified mail (see page 28 for sample). Once receipt of delivery is received, the attendance officer will make a determination as to the compliance by the parent(s) or guardian(s) in sending their child to school the next day.

If the determination is compliance, the case is monitored until such time as noncompliance is noted. If noncompliance is later noted, reporting information is collected, assembled, and sent to the district attorney. All cases that reach the level of "formal notification" are monitored until the end of the current school year and are kept on record for three years.

If the child does not return to school the following day, the attendance officer will further investigate the situation to determine the following:

1. If the child is beyond the control of the parent/guardian (per ORS 419.476(b)) or,
2. If the child's behavior, condition, or circumstances are such as to endanger the child's welfare or the welfare of others (per ORS 419.476(c)) or,
3. If the parent/guardian is negligent in sending the child to school.

If the parent is trying to get the child to school but the child is out of parental control, the attendance officer will request that the parent pursue filing an "out of control" petition through Juvenile Court. Juvenile Department staff will explore this option with the parent and will present the petition to the court if appropriate. The parents may be eligible for a range of supervisory and rehabilitation services through the Juvenile Department. If the parent cooperates with this process, there is no consideration of negligence and, therefore, there would be no reason to charge the parent in district court for failing to send the child to school.

If there are "conditions or circumstances" that endanger the child's welfare or the welfare of others, such as chronic health problems that prevent the child from attending school, the attendance officer will either make a referral to the local Child Protection Team for case review or will request that the parent go to the Juvenile Department to pursue possible Juvenile Court jurisdiction.

If "out of control" and "conditions and circumstances" are ruled out and the parent is still noncompliant in sending the child to school, the attendance officer will gather necessary information to show negligence.

This could include additional direct involvement or intervention by the attendance officer or additional statements or actions made by the family. This information is collected and sent to the district attorney in thorough report form. (See page 29 for sample report.) After this, no further family intervention is appropriate by the attendance officer due to potential harassment charges by parents. At this point, interaction occurs within the courtroom, district attorney's office, or through an attorney.

**When to Refer**

If classroom, building, and district interventions have failed to bring about positive attendance patterns, and the student has missed eight unexcused one-half day absences in any four-week period, a referral to the attendance officer is made requesting legal intervention.

**How to Refer**

A referral is made by submitting to the attendance officer the Attendance Officer Referral Form and the required supporting documents (attendance data, Student Attendance Assessment Form, and Intervention Summary Form).

# GENERAL INTERVENTION PROCESS

LEVEL I: INTERVENE IN THE CLASSROOM

A. Monitor attendance
B. Teacher/student contact
C. Informal plan to encourage student
D. Parental contact

LEVEL II: DEVELOP A COMPREHENSIVE PLAN

A. Assess barriers to regular attendance
B. Develop written plan
    1. Interventions to decrease barriers
    2. Parent communication
    3. Student contact to review progress
    4. Utilize resources as appropriate
    5. Coordinator identified to oversee plan
C. Make referrals as appropriate to building, district, and community resources
D. Determine the need for special education/alternative education
E. Implement plan and revise as needed

LEVEL III: PURSUE POSSIBLE LEGAL INTERVENTIONS FOR TRUANCY

A. Maintain interventions at Level II
B. Refer to attendance officer for services
C. If above interventions are unsuccessful, file petition with the court (for more specific details of process, see page 16.)

**ATTENDANCE OFFICER REFERRAL FORM**

LINN-BENTON ESD

Name _____ School _____

Date of Birth _____ Grad ____ Referred by _____

Date_____ Phone _____

Parent's Name _____ Parent has been contacted_____

Address _____

Home Phone _____ Other Number _____

Location of Home _____

_____

_____

**Services being requested of attendance officer:**

__ A. Informal letter sent to parents (Attach attendance data to referral)

__ * B. Case management services (This option must be decided through a YST process)

__ * C. Begin formal legal process

* Please attach the student attendance assessment form and the intervention summary form to this referral

Brief information about school's concern and any other information that would assist the attendance officer:

_____

_____

_____

_____

## SAMPLE ATTENDANCE OFFICER COMMUNICATION

Oct 5, 1989

John & Jane Doe
100 Honey-Cutt Stump Rd.
Albany, OR 97321

Re: Doe, Glenda

Dear Mr. and Mrs. Doe:

Glenda has been referred to this office because of excessive absences from school. This can constitute a violation of Oregon Educational Law. It also hinders this student's constitutionally provided right—that of an education. To guarantee this opportunity for the children of the State of Oregon, the following laws have been established:

> Except as provided in ORS 339.030, all children between the ages of seven and eighteen years who have not completed the 12th grade are required to attend regularly a public full-time school in the school district in which the child resides.
>
> Except as provided in ORS 339.030, every person having control of any child between the ages of seven and eighteen years who has not completed the 12th grade is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term.

In summary, we shall expect Glenda to attend school regularly and to remain in school the entire day as scheduled.

Sincerely,

Royal Harger
Attendance Officer
Linn-Benton ESD

pc: Steve Okra
Primary School

89-007

**SAMPLE FORMAL NOTICE OF TRUANCY**

November 15, 1989

John & Jane Doe
100 Honey-Cutt Stump Rd.
Albany, OR 97321

In accordance with the provisions of the Compulsory Education Law, you are hereby notified of the nonattendance or truancy of Doe, Glenda, DOB, 8/21/80, who is under the guardianship of John and Jane Doe, whose address is 100 Honey-Cutt Stump Rd., Albany, OR 97321.

The attendance violation consists of 19-1/2 days of absence and 4 tardies since the beginning of the current 1989-90 school year. To the best of my knowledge and belief, this child is subject to the Compulsory Education Law.

NOTIFICATION INFORMATION.

(A) This notice is stating that the student named above must appear at public school on the next school day, and that *regular attendance* must be maintained during the remainder of the school year, then

(B) If and when the attendance officer determines that the parent or guardian has failed to comply with this notification, the attendance officer has within 3 days to notify the court of refusal or neglect to comply with the above notification then

(C) Upon receiving the complaint from the attendance officer, the judge shall issue a warrant upon the parents or guardian of truant named above, and shall proceed to hear and determine the matters alleged in the complaint.

Superintendent or School Administrator: Ray Guy/Steve Okra

Royal Harger
Attendance Officer

89-007

## SAMPLE COURT ATTENDANCE VIOLATION REPORT

Royal Harger

County School Attendance Officer

January 1, 1989

Mr. John (DOB: 4/21/56) and Mrs. Jane (DOB: 5/2/60) Doe
PO Box 301/102 3rd Ave. SE
Albany, OR 97321

Custodial Parents of:

Glenda Doe

(8/21/80) - Student

PO Box 301/102 3rd Ave. SE

Albany, OR 97321

Violation of Compulsory School Attendance Law (339.020). Failed to Send and Maintain Child in School.

Glenda Doe (8/21/80) - Student

Evidenced by 38 full days of absence and 1 1/2 day absence from school since the beginning of the current 1988-89 school year, which began on September 6, 1989.

Other Persons:

Mr. Royal Harger - Attendance Officer
Linn-Benton Education Service District
905 4th Ave. SE
Albany, OR 97321
Phone: 967-8822

Mr. Steve Okra - Counselor
Primary School
109 4th Ave.
Albany, OR 97321
Phone: 967-2020

Mr. Ray Guy - Principal
Primary School
109 4th Ave.
Albany, OR 97321
Phone: 967-2020

Mrs. Busy Bee - Secretary
Primary School
109 4th Ave.
Albany, OR 97321
Phone: 967-2020

**SAMPLE DATA**

**Oct. 4, 1989**: School counselor, Mr. Steve Okra, called to ask assistance with a first grade student who had been absent for six consecutive days. Mr. Okra had attempted to visit the home (102 3rd Ave. SE, Albany, OR) but was unable to find any person at home. Mr. Okra suggested that an alternative residence might be used by this family and requested that I visit that address (100 Honey-Cutt Stump Rd. #18, Albany, OR).

**Oct. 5, 1989**: Letter sent to 100 Honey-Cutt Stump Rd. #18, Albany, OR, addressed to John and Jane Doe advising of attendance referral and of the State statutes that require attendance at school and of the parental responsibility to maintain that educational program. Letter included in report.

**Oct. 6, 1989**: Home visit attempted. I went to the residence at 100 Honey-Cutt Stump Rd., #18 during the afternoon hours. It appeared no one was home as no one came to the door after some knocking and no sounds were heard inside the mobile home. I went to mobile homes on both sides of #18 to ask if this was where the Doe family resided. I visited a neighboring mobile home located at 100 Honey-Cutt Stump Rd. #19, Albany, OR, where a Mr. John Q. Public who lived there advised, "Yes" a John and a Jane Doe resided there, and he was aware of a young child but he believed they only stayed at this residence on the weekends, that I would have to return then if I wanted to talk with the family. I then visited the mobile home located at 100 Honey-Cutt Stump Rd., #17 where a Mrs. Nelly Neighbor responded she knew the Does, that John (Mr. Doe) had been at home most of the morning and had just left prior to my arrival. She advised that Glenda was with John in the car when the family left, but that Jane (Mrs. Doe) was not around. She also advised of frequent verbal altercations between Mr. and Mrs. Doe and that sometimes she worried about Glenda and about her not going to school. I left my card with this neighbor and asked her to give it to Mr. Doe when it was convenient for her to do so. When I left, I recorded the Oregon plate of a car parked in the driveway. WOW007 was parked in the driveway, registered to a John Doe (DOB 4/21/56).

**Oct. 7, 1989**: Mr. Steve Okra called to advise Glenda Doe is in school today after 9 consecutive days of absence.

**Oct. 19, 1989**: School calls to advise Glenda has been out past day and a half. This is the first absence since the attempted home visit. She brings a note from home stating "Glenda felt sick," said she had flu symptoms but was feeling better now and wanted to go to class. Asked to be excused for previous day and that morning. Note is included in report and signed by a Jane Doe.

**Nov. 8, 1989**: Glenda comes to school today after four consecutive absences. Nothing from home is presented for excuse. Glenda states she has been ill.

**Nov. 10, 1989**: Glenda has been absent an additional eight days out of a possible fourteen days of school with no contact from home regarding why Glenda has missed school. She is present today and again has a note from home "Glenda missed school yesterday because she had to go to the doctor to have some more tests taken." Again signed by a Jane Doe. (Note is also included in report.)

**Nov. 12, 1989**: Parent conference. Parent failed to show.

**Nov. 15, 1989**: Because of the numbers of absences with no parental contact, a formal notice of truancy is prepared and sent by certified mail. 19 1/2 days of absence have occurred. Two letters are sent, one to 102 3rd Ave. SE, Albany, OR 97321 and another to 100 Honey-Cutt Stump Rd., #18, Albany, OR 97321.

**Nov. 30, 1989**: Mr. Okra called to ask if formal notice has arrived, as Glenda has shown up at school today. I was unaware at that point if notification had been delivered as I had not received registered receipt. She has a note from Jane Doe saying Glenda has been absent for two weeks. Also, due to illness in the family, they had to leave the state for three weeks and had no friends or family to leave Glenda with. Note is included in report.

**Dec. 1, 1989**: Receipt of certified mail received at Linn-Benton ESD. Truancy notification was received on November 30, 1989.

**Dec. 2, 1989**: Glenda is again absent from school with no prior notification or suggestion that an absence was anticipated.

**Dec. 7, 1989**: Received second formal notification letter back at the Linn-Benton ESD marked "UNCLAIMED." Letter was addressed to 100 Honey-Cutt Stump Rd., Albany, OR. Letter was return post marked December 6, 1989, with four attempted deliveries. Envelope included.

**Dec. 7, 1989**: Glenda returns to school after three additional absences. Note from home states, "missed the last four days of school because we had to return to California for a funeral. There should be no more attendance problems." Note included in this report.

**Dec. 7, 1989**: Mrs. Jane Doe came to the Primary School and met with Mr. Okra. He related concern that Glenda is experiencing stress in the school environment. Mrs. Person reports that Glenda has been involuntarily soiling her pants. Mr. Okra has observed Glenda appearing uncomfortable in class looking at other student's work, trying to understand what is going on. Mrs. Person reports sending work home in order to catch up but none is returned completed, that Mrs. Doe says Glenda loses it.

**Dec. 8, 1989**: Letter is prepared by Mrs. Happy Person requesting a conference be scheduled for sometime in the near future. Letter is held as parent appeared the day previous. Advises of the need to meet as the previous conference on November 12 had been missed.

**Dec. 9, 1989**: Glenda Doe is absent from school today and Principal, Mr. Ray Guy, went to the residence in the early afternoon. No one was home. Note documenting this visit is included in report.

**Dec. 19, 1989**: I attempted a home visit at 102 3rd Ave. SE, Albany, OR address, as Glenda is again not in school. At approximately 2:00 p.m. during the school day, it appears no one is at home as no person responds to repeated knocking at door.

**Dec. 20, 1989**: Glenda Doe is in school today. No note from parent as to reason for past three consecutive days of absence.

**Jan. 4, 1990**: Mr. Steve Okra calls to advise an additional two days of absence have occurred after the Christmas break (January 3 and 4).

**Jan. 4, 1990**: After an additional seven absences, a report is prepared for the court requesting assistance with this family in the process of the education their daughter, Glenda. Glenda Doe (8/21/80) has missed 38 1/2 days of school during the current 1989-90 school year.

**CONCLUSION:**

Mr. John Doe and Mrs. Jane Doe have failed to maintain their daughter, Glenda Doe (8/21/80) in attendance at school as evidenced by the extreme number of school absences. Some notes have been provided from home to explain general reasons for the absences, but, no medical documentation has been offered to explain such large numbers of absences. Work that has been sent home to be done during times of illness or family emergency seem to disappear and are never returned. This matter continues to go on with little or no improvement. The school principal, teacher, counselor, and/or attendance officer have been unable to bring about compliance with the law by these parents. Mr. and Mrs. Doe need to pay greater attention to Glenda's education in order to bring about a change in this matter.

I am requesting the court's assistance in mandating compliance by this family. Parents, Mr. John and Mrs. Jane Doe need the court's assistance in understanding the importance they play in the educational process of their child, Glenda.

# ATTENDANCE POLICY AND PROCEDURE DEVELOPMENT

While there are a lot of forces in society working against regular school attendance, the message supported by research is that schools can have a positive impact on truancy when a high priority is given to effective attendance policies. Simply formulating such a policy, however, is not enough. The policy must be brought to life with specific procedures that detail the policy's application to specific circumstances.

According the Robert Rood[22], school staff generally utilize one of three types of policies:

1. Policies that attempt to provide incentives for good attendance
2. Polices that dispense punitive, administrative consequences, such as detentions or suspensions, and
3. Restrictive and punitive policies that penalize students academically by withholding credit or lowering grades when a number of predetermined absences is reached.

While some attendance policies combine the use of all three types, most school policies consist of negative administrative and academic consequences, omitting the application of incentives for encouraging regular attendance. This is somewhat alarming since there is a growing body of research suggesting that incentives have a more positive impact on improving attendance than negative sanctions.

## QUESTIONS TO ASK IN REVIEWING ATTENDANCE POLICIES AND PROCEDURES

The following questions address necessary elements of effective attendance polices and procedures.

1. Has there been broadly based participation in the development of the policy, involving administrators, teachers, students, and parents?
2. Is the policy consistent with the educational philosophy of the school district?
3. Is the policy's purpose educational rather than punitive?
4. Does it include a statement that attendance is the responsibility of the student and parents?
5. Are students held accountable for their attendance decisions?
6. Does the policy attempt to develop a positive attitude toward attendance?
7. Are incentives available for regular attendance?
8. Are expectations and outcomes clear and well publicized?
9. Is regular attendance valued and supported in the classrooms?
10. Is there an instructional incentive for students to be present on a regular basis?
11. Is the policy flexible enough to allow for extenuating circumstances?
12. Is there a procedural due process statement to allow for an appeal to be made?
13. Does the policy clarify a process for providing increasing educational interventions to support and encourage nonattenders?
14. Is the policy legally sound?
15. If the policy includes negative consequences, does it also include frequent home-school contact?

16. Do the procedures on absences include immediate followups to parents by letter, phone, or other means?
17. Are chronic truants identified and then provided support?
18. Is there consistent enforcement of the existing attendance policy by school staff?
19. Are alternative educational programs used for students who are not benefitting from the traditional educational curriculum?
20. Do all teachers include regular attendance as part of the course objectives provided for students?

## SAMPLE POLICIES

The following sample policies cover a range of situations encountered in several Oregon school districts such as suggestions for reporting pupil progress to parents, measurements of academic achievement, attendance policies, and policies regarding grade reduction and credit denial.

### Oregon School Boards Association

Goals of attendance requirements are to:

1. Contribute to the academic success of students;
2. Inform parents about their students' class attendance or nonattendance;
3. Place the responsibility for attendance in the hands of students and their parents;
4. Aid students in making decisions and accepting the responsibilities and consequences resulting from those decisions;
5. Stress that punctual and regular attendance is a learned function necessary in coping with life;
6. Meet Oregon graduation requirements.

The Board directs the superintendent to develop rules and regulations which meet these objectives and to publish those rules and regulations annually for students and their parents.

END OF POLICY

Legal References:

ORS 339.020
ORS 339.030
ORS 339.065
OAR 581-21-050
OAR 581-22-316

This policy language is geared toward secondary schools.

### Sample District Policies

***Scappoose School District 1J***

Reporting to Parents

Scappoose School District 1J utilizes a combination of report cards and parent-teacher conferences for the purpose of reporting pupil progress to parents. In the primary schools two semiannual parent-teacher conferences are the sole method used for reporting pupil progress. In grades 4-12 one annual parent-teacher conference supplements four yearly report cards.

On a more informal level both teachers and principals at all levels utilize telephone calls and home visits to communicate with parents.

It is the policy of District 1J that any grade received in a course reflects a pupil's achievement in that subject area. Wrong attitudes and other disciplinary concerns should be reported elsewhere. Grades should not be used to punish pupils who are obstreperous, refractory, or who are otherwise creating discipline problems for the teacher. A grade should reflect the quantity and quality of work completed or the level of competence demonstrated for the particular course involved. However, a student who fails to complete any required portion of course work may receive a failing grade at the teacher's discretion.

It is the teacher's responsibility to determine pupil grades. It is expected that teachers will base all decisions for assigning grades on a conscientious and impartial analysis of data collected for each and every pupil. Each teacher upon the request of administrators, parents, or pupils shall produce adequate data that supports and justifies all grades assigned.

Time-honored marks (A, B, C, D, F) are those in use in School District 1J. A mark of (*A*) means that a student's performance has been *outstanding* or *superior*, a mark of (*B*) means that a student's work is judged to be *above average*, a mark of a (*C*) means that a student's work is of *average quality*, a grade of (*D*) means a student's work is *below average* and not up to minimum course standards, and a grade of (*F*) means that the work is of such inferior quality that it may not be counted toward promotion or graduation. The secondary schools do have a limited Pass, No-Pass option (refer to student handbooks).

(Adopted by the School Board November 10, 1980)

Attendance Philosophy

. . . Excessive absences will result in reduced performance in class and will lead to credit being denied (subject to review).

Make-up Work

. . . Unexcused absences will result in an "F" for the day.

***McMinnville Public Schools***

*Grading* - Policy

In the McMinnville School District, grades will be determined by academic achievement at all levels, K-12.

(Adopted August 13, 1984)

*Grading* - Administrative Regulation

Academic achievement is a measure of the student's performance in relation to the course objectives as stated in the district curriculum guides.

Academic achievement in the classroom can be measured by:

1. Criterion-referenced tests which are to be valid
   A. Author tests from the text(s) which are in primary use in that class.
   B. Teacher-made tests covering specific topics/concepts which have been presented in that class.

II. Projects or products and classroom work which have been described in classroom objectives or have been written in an individual contract with students.

III. Extra work/homework which contributes to the child achieving the classroom goals.

Behavior and attendance are to be recorded separately from achievement and should not affect an academic grade with the following exceptions:

1. Students who miss tests and or assignments as a result of truancy, suspension, or unexcused tardiness will receive a failing grade for work missed and will not be given an opportunity for makeup.

2. Students caught cheating will receive a failing grade for that test or assignment and will not be given an opportunity for makeup.

Letter grades in grades 4-12 will be based upon the following percentages:

| | |
|---|---|
| A | 94-100 |
| B | 86-93 |
| C | 78-85 |
| D | 70-77 |
| F | 0-69 |

Behavior and attendance are to be recorded separately from achievement and will not directly affect the academic grade. The school will not be required to provide makeup work for unacceptable attendance and/or behavior.

***Malheur County School District 8C***

Ontario, District Attendance Policy, Oregon Policy Code: JED-R

All children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school district in which the child resides, with the exceptions defined in 339.030. Except as provided in ORS 339.030, every person having control of any child between the ages of 7 and 18 years who has not completed the 12th grade is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term. Nine exceptions from compulsory school attendance are defined in 339.030. Another significant exception is OAR 581-21-016 (5) regarding religious beliefs.

The parent(s) may appeal to the superintendent and/or school board for a waiver of the policy.

Each school will develop procedures on handling absences and tardies as they pertain to the different age and grade levels.

Legal Reference:

ORS 339.010 - 339.020
OAR 581-22-102(29)

**Sample K-8 Attendance Policy—Ontario Elementary School**

Ontario, Oregon
Policy Code: JED-RR
Adopted: 6/21/89

Attendance at the Ontario Elementary Schools will be handled in the following manner:

1. Students are required to attend regularly unless an exception as defined by the Oregon Revised Statute 339.030 is met.
2. Students will report to the teacher upon return to school following any absence, other than school sponsored, with a note from the parent explaining the absence.
3. The usual time allowed to make up work following an absence is two (2) days for each day of absence. This is to be worked out between the student and the teachers.
4. Students are required to check out with the office if they need to leave school during school hours, for any reason.
5. If a student is absent six (6) days during a grading period, it will be necessary for a parent/principal conference to discuss possible solutions to the attendance problem.
6. Near the end of the year, the principal and teacher will review those students' records who have accumulated 24 days of absences; these pupils will have their attendance and academic records assessed for possible retention.
7. School sponsored or sanctioned activities are exempt from and will not be counted toward the six absences.
8. An appeal for waiver of these policies due to any extenuating circumstances must be made to the Superintendent and/or School Board.
9. Students covered by PL 94-142 who develop attendance problems will be dealt with on an individual basis, and will have a plan of correction in an IEP.

**Sample High School Attendance Policy—Ontario High School**

Ontario, Oregon
Policy Code: ED-RRR
Adopted: 6/21/89

In accordance with the Ontario School District policy and following procedures, attendance and tardies will be handled in the following manner:

1. Students are required to attend regularly unless an exception as defined by ORS 339.030 is met.
2. A unit of credit is the certification of a student's attendance and successful completion of classroom or equivalent work in a course of at least 130 clock hours (65 clock hours per semester).

3. Students may not be absent from each class period more than 11 times during a semester to be eligible for a passing grade and a 1/2 credit per class period during the semester. A grade of "F" will be recorded on the student's permanent record unless the conditions in paragraph (d) are met. All absences, both excused and unexcused, with the exception of confining medical illness, will be counted toward the 11 absences.
   All students will remain in the scheduled class regardless of absences, unless circumstances warrant otherwise.

   Students who are absent more than 15 times in any one class will be considered truant and may be suspended pending a parent conference to determine the best educational program for that student.

   Students who may be absent in excess of 11 absences, up to 4 times per class and have demonstrated a positive attitude and ability toward the class, may appeal in writing and appear before an appeal committee, of which the classroom teacher is a member, to request the opportunity to make up the excessive absence and required work between 2:30 and 3:30 p.m. with the teacher or at the teacher's convenience. Satisfactorily completing the time and work requirement may reinstate the eligibility to receive credit.

   If the student is unable to meet the requirements of the school regarding attendance, the student may be expelled from school and alternative educational opportunities may be discussed with the student and parents.

4. School sponsored or sanctioned activities will not be counted as absences.

5. Students will report to the attendance office upon return to school following any absence from school, other than school sponsored, to get an Admit-To-Class slip. If the absence has been excused by the parent, either by phone or by a written note, then make up privileges will be allowed.

6. The usual time to make up work is two (2) days for each day of excused absence. This is to be worked out between the teacher and the student. No make up privileges will be granted for unexcused absences.

7. Prearranged absence forms are available and may be completed if the student and parents know an absence is going to take place. These absences will be counted toward the 11 absences allowed per semester.

8. Students are required to inform the attendance clerk if they need to leave school during school hours for any reason.

9. Tardies will be handled in the following manner:

   Three tardies in a class during the semester will be considered one (1) absence and will count toward the 11 absences in that particular course.

   On the third (3) tardy in a semester, the instructor will notify the vice-principal and a parent contact will be made to try to correct the violations.

Students who arrive to class after the first 5 minutes will be counted absent.

At a minimum, students who accumulate more than three (3) tardies in a class during a semester will be expected to complete a 30 minute study/ work assignment.

10. Parents of students who develop attendance problems will be notified periodically by the attendance clerk or the vice-principal.

11. Students and their parents may appeal loss of credit if there are extenuating medical circumstances which have been counted in the loss of credit absences. *Any extraordinary circumstances which may require a student to be absent twelve* (12) *or more days during a semester will be handled through a parent-administrative conference.* Issues not resolved may be appealed through the school board.

12. Students covered by PL 94-142 who develop attendance problems will be dealt with on an individual basis and will have a plan of correction in an IEP. After the attendance problem has been addressed in the IEP, and it continues to the point of 23 absences, an evaluation will be conducted to determine whether the attendance problem is the result of a handicapping condition. Before a change of placement is made,the multidisciplinary team will meet to review the evaluation data and determine whether or not the student's attendance problems are a result of the handicapping condition.

## POLICY ISSUES REGARDING GRADE REDUCTION AND CREDIT DENIAL

Grade reduction and credit denial are two topics often addressed in school attendance policies. The following article, published by the Oregon School Boards Association,[23] is included in its entirety as it thoroughly discusses considerations in regard to both topics.

"An Overview of Legal Challenges to Grade Reduction and Credit Denial"
by Kathryn Wells Murdock, Director, Legal Services Section, Oregon Department of Education

When is a grade not a grade? In many districts, a student's grade in a particular subject does not solely reflect academic achievement, but instead reflects attitude, attendance and disciplinary action. In fact, by some school district policies, a student's entire credit for a class may be denied because of attendance. Around the country these policies have generated a number of lawsuits.

In Oregon at present, there is no case law in this area and there are no statutes or administrative rules regarding criteria for grades. Oregon Administrative Rule 581-220602 does require school districts to report to parents at least annually their student's progress in each subject area of instruction. This is the only legal requirement regarding the report of student progress.

This paper is intended to provide Oregon school districts with some legal guidelines based upon what has happened in other states. It is to help districts analyze their own policies; so if there is a suit in Oregon, the court will be able to uphold the district's policy.

This paper only addresses legal challenges to grading policies and practices that are not based on academic achievement. Courts have generally held that they will not second guess educators' academic evaluations of students. The district court of Vermont said it clearly:

> In matters of scholarship, the school authorities are uniquely qualified by training and experience to judge the qualifications of a student, and efficiency of instruction depends in no small degree upon the faculty's freedom from interference from other noneducational tribunals. It is only when the school authorities abuse this discretion that a court may interfere.[1]

When grading policies reflect misconduct and nonattendance, however, the courts have interfered. The courts have looked at 1) substantive due process, 2) procedural due process, and 3) whether the district policy is *ultra vires*, i.e., beyond its authority.

The implication of these three legal challenges will be discussed in regard to grade reduction for misconduct and grade reduction for truancy. Finally, credit denial will be discussed with some recommendations necessary to comply with Oregon law.

### Grade Reduction for Misconduct

*Substantive Due Process*

The term "due process" was first used in a rewording of the Magna Carta in 1354. The courts have interpreted it to mean the right to be treated fairly by the government. Substantive due process means the content of the laws must be fair. In looking at a district's grading policies to see if it provides substantive due process, the pivotal question is: Does the punishment fit the crime?

When a student is suspended from school (seven calendar days maximum per suspension, according to OAR 581-21-065) he/she is absent. When, in addition to the suspension, the student is academically penalized, there is a question whether the student has been provided substantive due process. "The state is constrained to recognize a student's legitimate entitlement to public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that clause."[2] Substantive due process is judged on the basis of reasonableness which has two requirements: The academic sanction must be rationally related to a valid educational objective and the severity of the sanction must be reasonable in relation to the student conduct.[3]

In *Katzman v. Cumberland Valley School District*,[4] a Pennsylvania honor student was sus-

pended five days for ordering and drinking a glass of wine on a school sponsored field trip. In accordance with district policy, her grades were lowered 2 percent per day missed for a total of 10 percent for the grading period. The court attacked the district policy stating, "The policy and the penalty here go beyond the scope of making up for lost time."[5] The court said:

> [A]lthough the penalty was for the five days missed, the assessed penalty downgraded achievement for a full marking period of nine weeks. Of course, for college entrance and other purposes this would result in a clear misrepresentation of the student's scholastic achievement. Misrepresentation of achievement is equally improper and, we think, illegal whether the achievement is misrepresented by upgrading or by downgrading, if either is done for reasons that are irrelevant to the achievement being graded. For example, one would hardly deem acceptable an upgrading in a mathematics course for achievement on the playing fields.[6]

But the district policy was upheld in *Fisher v. Burkburnett Independent School District.* In that case a Texas student, after overdosing on drugs, was suspended for the remainder of the school year and lost all academic credit.[7] The Texas court found that grade reduction as punishment for drug abuse was reasonable and not excessive. According to the court, the school's legitimate interest in stopping drug abuse was so important that the loss of a trimester of credit, in light of the student having "flirted with death," was not regarded as so excessive as to violate substantive due process.[8]

*Procedural Due Process*

Procedural due process means the procedures for applying and enforcing the laws must be fair. All school administrators are aware of the requirements of *Goss v. Lopez,*[9] which state that a student must at least have notice of the prohibited conduct and an opportunity to be heard before suspension. However, when a Texas student was suspended for misconduct and in addition lost academic points, a federal court in *Jones v Latexco Independent School District* said, "The loss of points, coupled with the suspension, aggravates the penalty and necessarily triggers somewhat greater procedural safeguards under the Fourteenth Amendment."[10]

Another decision out of Texas, *New Braunfelds Independent School District v. Armke* addressed the issue of a student needing to show a loss of liberty before the Fourteenth Amendment protection would be invoked.[11] When students were suspended for drinking on a school sponsored trip and their six weeks grades were lowered by three points for each day of suspension, the court found no negative impact on the honor, reputation, or name of the students because they already had been admitted to the universities of their choice.

The *Armke* case also considered the issue of proper notice. The students argued that the board could not impose penalties because the student handbook did not say that days of suspension were to be treated as unexcused absences. The board, through student testimony, showed the disciplinary and academic sanctions for alcohol use had been explained at school assemblies. The court said a *"policy may be informal and may even be oral so long as it fairly apprises students of the conduct prohibited and the penalties attached to the prohibited conduct."*[12]

*Ultra Vires*

If a government body's action is found to be *ultra vires,* it means the action was beyond the body's authority. Being created by statues, school districts can only do what is authorized by statute. The *Fisher* court (in which the student overdosed on drugs) found that although "stripping the student of academic credit does not serve any academic purpose," it functioned to carry out school discipline which is within the district's authority.[13] The Texas statute provided for suspension and "alternative methods of discipline" in response to extreme misbehavior by students. The court held that alternative methods of discipline included the imposition of academic penalties.

*Dorsey v. Bales* reached a different conclusion based on the Kentucky statutes.[14] A student was suspended for misconduct and the missed days were counted as unexcused. This triggered the

district policy which reduced the student's grade for the entire grading period by one grade for each unexcused absence. The court said the state statutes only allowed school boards to make rules to govern conduct, but not to impose academic discipline for misconduct.

Oregon's statutes are silent as to school boards' authority to impose academic discipline. ORS 339.250 authorizes district school boards to discipline, suspend, or expel a refractory pupil. OAR 581-21-055 gives examples of various acts which may be the basis of disciplinary action, but does not expand the district board's authority beyond discipline, suspension, or expulsion. Arguably, discipline could be interpreted to include academic sanctions, but there is no court precedent in Oregon for this interpretation.

### Grade Reduction for Absenteeism

Oregon's compulsory attendance law, at ORS 339.010 through 339.090, requires students between seven and 18 years of age who have not completed the twelfth grade to regularly attend public school except for specific exemptions such as attending a private school or being educated by a parent or private tutor. Parents have a duty to send students to school and can be fined or imprisoned if they do not fulfill this duty.

Presumably, the compulsory attendance law was enacted because of a rational relationship between school attendance and a student's academic achievement. However, courts around the country have split on school districts' authority to lower grades based upon attendance.

*Substantive Due Process*

An Illinois court upheld a grade reduction of one letter for each unexcused absence stating, "grading systems have commingled factors of pupil conduct with scholastic attainment."[15] A later case in Connecticut, *Campbell v. Board of Education*, upheld denial of all credit for a course when the student was absent 25 or more days.[16]

The Connecticut case, while it upheld the district policy, should be viewed as a precautionary statement to school districts because the court relied so heavily on the very detailed policy which was carefully drafted and fairly applied. For an analysis of this case, please see "Academic Evaluation and Student Discipline Don't Mix: A Critical Review," 16 JL Educ 155.

Under the school district's policy in that case, the grade was circled if reduced because of unexcused absenteeism. Thus, by looking at the number of unexcused absences, the original academic grade could be approximated.

The policy clearly stated that its purpose was educational rather than disciplinary. A student's absence whether excused or unexcused, was not considered a reason for suspension or expulsion from school and the policy provided for extensive counseling after a student's first and subsequent unapproved absences from class.

*Procedural Due Process*

Notice and hearing are the two essential ingredients of procedural due process. A Missouri case dealt with the notice requirement. It found that telling students in the music class that participation in the two Christmas performances was required in order to pass the course was sufficient notice because the student was aware of the consequences of his unexcused absence.[17] As to the hearing requirement, the Supreme Court of Connecticut in *Campbell* said that the student must not only have notice of the prohibited conduct but must also have "a meaningful timely opportunity to be heard regarding the grade."[18] The court noted that notice and hearing did not have to take any particular form.

*Ultra Vires*

As discussed above, whether the grade reduction based on absenteeism is within a school district's authority depends on the state laws that confer the school board's authority.

A New York court found the district had exceeded its authority when a student was not allowed to take the final exams because of 24 days of truancy and another 24 days of absence from a required course. The court based its holding on the fact that the New York law specifically provided other sanctions for truancy such as fines against parents. That sounds like Oregon's law which provides in ORS 339.990 that a violation of the parent's duty

to send a child to school is punishable by not more than $100 or imprisonment in the county jail for not more than 30 days, or both.

A good example of statutory authority for academic sanctions for absenteeism is Washington's law which states:

> Each school district board of directors may establish student grading policies which permit teachers to consider a student's attendance in determining the student's overall grade or deciding whether the student should be granted or denied credit. Such policies shall take into consideration the circumstances pertaining to the student's inability to attend school. However, no policy shall be adopted whereby a grade shall be reduced or credit shall be denied for disciplinary reasons only, rather than for academic reasons, unless due process of law is provided as set forth by the State Board of Education under RCW 28A.04.132 (RCW 28A.58.230).

Washington's administrative rule further provides that academic penalties may not be enforced unless the individual teacher establishes that attendance and/or participation will be a basis for grading in a particular course. Additionally, the teacher must be prepared to justify that the attendance requirement relates to the instructional objectives or goals of the particular course.

Thus, in Washington, so long as a district policy permits attendance to be a factor and the individual teacher identifies participation to be tied to learning and attendance, grades may be reduced, provided that the elements of due process are met (See WAS 180-400-245(3); 180-40-260(3); 180-40-275(3).)

Oregon law contains no similar authority. In fact it contains no references to grading. The Oregon School Boards Association has one model policy that states:

> Insofar as possible, distinctions will be made between a student's attitude and his/her academic performance. Grades will not be used for disciplinary reasons.

This policy is endorsed as legally and educationally sound by the Oregon Department of Education.

School districts may also want to give some thought to eliminating the distinction between excused and unexcused absences in grading policies. If attendance, i.e. participation, is a bonafide basis for grading, then there should not be a distinction between unexcused and excused absences. Whether a student is ill, suspended, traveling with the football team, or skipping, he/she is not participating in the class.

### Credit Denial

A common policy among Oregon school districts is the denial of all credit when a student has missed a certain number of days, which range from five to 25, depending on the local school district. There is wide variance among the policies. Some policies differentiate between excused and unexcused absences. Some have a timely appeal process, others do not.

Some credit denial policies are based on the erroneous assumption that OAR 581-22-102 requires the student to be physically present 130 hours to receive a unit of credit. The administrative rule defining a "unit of credit" refers to a "course of at least 130 hours." Thus, while the course must be at least 130 hours, there is no state mandate that the student must physically be in the class 130 hours in order to receive credit. This allows the local officials directly involved to excuse a student as necessary for illness, family emergencies or other acceptable absences and allow makeup work equivalent to the classroom instruction. School districts have a wide latitude of discretion in granting credit for makeup work, independent study, challenge tests, and other alternative learning experiences. See OAR 581-22-316(3)(b) and OAR 581-22-317.

There is no question that a credit denial policy is intended to encourage regular attendance. In some cases, however, it may encourage a student to simply leave school. When a student is denied credit because of absenteeism an alternative education program should be offered for two reasons. First, the denial of credit probably could be construed as a de facto expulsion. This is

particularly true when a student is encouraged to leave school for the remainder of the term. Second, by denying credit for absenteeism, the school district has made a determination that the student's attendance is so erratic he/she is not able to benefit from the education program.

Under Oregon law, a district must propose alternative education programs prior to the pupil leaving school when a student has been expelled or when it has been determined that "a pupil's attendance pattern is so erratic that the pupil is not benefiting from the educational program." See OAR 339.250 and OAR 581-21-071. Failure to propose an alternative program can cause a district to jeopardize its status as a standard school (ORS 339.640).

Many credit denial policies provide for a hearing at the end of the grading term rather than as soon as it is determined the student has triggered a potential loss of credit. Besides the obvious educational problem of motivating students who do not know if they will receive any credit for the work they are doing, there is a due process problem. The old adage, "justice delayed is justice denied," applies here. By not having a hearing until the grading period is over, there is no way a student could receive the benefits of an alternative education during the grading period. This is particularly harsh if it is during the twelfth grade. It may mean the student will not graduate. The hearing should be held immediately so if the credit is to be denied, the student can be provided an alternative education program and immediately concentrate his/her efforts on earning the credit.

In summary, when developing or revising grading policies, school districts need to consider three possible legal challenges they could face. As to substantive due process, the punishment must fit the crime and not be overly harsh. As to procedural due process, there must be notice and some type of hearing before the grade is reduced. If the grade reduction results from a suspension, there must be an opportunity for the student to be heard regarding the grade reduction as well as the misconduct. As to whether the grade reduction is within the school district's authority, the state statutes must be analyzed to see if there is some authority to consider misconduct and absenteeism in grading. Oregon law has no specific authority, but some courts in other states have held that the compulsory attendance laws implicitly give this authority. Finally, if the district is committed to reflecting absenteeism and misconduct in an academic grade, the policies and procedures should be carefully reviewed by the district's legal counsel.

An eight point checklist highlights the issues discussed in this paper. A district may wish to consider these in evaluating its grading policy.

1. Has the individual teacher determined that attendance is an essential part of the individual course? Is notice of this requirement and the reason for this included in the course description?
2. Is the effect of absenteeism uniformly applied without regard to the reason for the absence?
3. Are final exams allowed to be taken when a student is suspended?
4. Are final exams allowed to be taken when a student is absent for other reasons (excused or unexcused)?
5. Are parents provided notice of impending grade reduction or credit denial?
6. Is there a timely appeal process that provides adequate procedural due process?
7. If a grade is reduced due to suspension, is there procedural protection for the student regarding grade reduction in addition to the notice and hearing which was provided for the suspension?
8. If credit is denied, is the student offered an alternative education program at district expense?

## FOOTNOTES

1. Connelly v. University of Vermont and State Agricultural College, 244 F. Supp. 156 (D.C. Vermont 1965)
2. Board of Regents v. Roth, 408 U.S. 564, 577 (1972)

3. Gutman and Young, "Academic Penalties: Their Legal Validity," Inquiry & Analysis of the NSBA Council of School Attorneys, September 1989.

4. 479 A.2d 671 (Pa Commw Ct. 1984).

5. Id. at 674-75.

6. Id. at 675.

7. 419 F. Supp 1200 (N.D. Tex. 1976).

8. Id. at 1205.

9. 419 U.S. 565 (1975).

10. Jones v. Latexco Independent School District, 499 F. Supp. 223 (E.D. Tex. 1980).

11. New Braunfelds Independent School District v. Armke, 658 SW 2nd 330 (Tex. App. 1983).

12. Id. at 332.

13. Ibid.

14. 521 SW 2nd 76 (Ky. 1975).

15. Knight v. Board of Education, 348 NE 2d 299 (Ill. App. Ct. 1976).

16. Campbell v. Board of Education, 475 A. 2d 289 (Conn. 1984).

17. Rjj by Johnson v. Shineman, 658 SW 2n 910 (Mo. App. 1983).

18. 475 A 2d 289, 297 (Conn. 1984).

## EPILOGUE

On August 23, 1991, the State Board of Education adopted a new rule, OAR 581-21-022, "Student Evaluation," and amended section (6) of OAR 581-21-065, "Suspension," to ensure that an academic grade is a valid representation of the student's academic achievement and that Oregon students are provided both substantive and procedural due process. The text of the rules is set forth below:

OAR 581-21-022, Student Evaluation

The district shall develop policies to assure that a student's academic grade reflects his/her academic achievement in that course. Absenteeism or misconduct shall not be a sole criterion for the reduction of grades.

OAR 581-21-065, Suspension

(6) School district boards or designated representatives shall specify the methods and conditions, if any, under which the student's school work can be made up. Students shall be allowed to make up school work upon their return from the suspension if that work reflects achievement over a greater period of time than the length of the suspension. For example, the students shall be allowed to make up final, mid-term, and unit examinations, without an academic penalty, but it is within the districts' discretion as to whether the students may be allowed to make up daily assignments, laboratory experiments, class discussions or presentations.

(The underlined portion is the new language.)

# LAWS REGARDING ATTENDANCE ISSUES

## COMPULSORY EDUCATION

Although not all of the Oregon laws and Oregon Administrative Rules related to attendance issues are included here, those most pertinent to the categories of Compulsory Education, Attendance Supervisor, Alternative Education, and Children with Jurisdiction of Juvenile Court are addressed.

School personnel in other states will need to assemble the corresponding statutes and administrative rules that govern their own policies.

***School attendance required: age limits***—ORS 339.010—Except as provided in ORS 339.030, all children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school of the school district in which the child resides. [Amended by 1965 c.100 274.]

***Duty to send children to school***—ORS 339.020—Except as provided in ORS 339.030, every person having control of any child between the ages of 7 and 18 years who has not completed the 12th grade is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term. [Amended by 1965 c.100 275; 1969 c.160 1]

***Exemptions from compulsory school attendance***—ORS 339.030—In the following cases, children shall not be required to attend public full-time schools:

(1) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools.

(2) Children proving to the satisfaction of the district school board that they have acquired equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the public schools.

(3) Children being taught for a period equivalent to that required of children attending public schools by a parent or private teacher the courses of study usually taught in grades 1 through 12 in the public school.

(4) Children excluded from attendance as provided by law.

(5) The State Board of Education by rule shall establish procedures whereby, on a semiannual basis, an exemption from compulsory attendance may be granted to the parent or legal guardian of any child 16 or 17 years of age who is lawfully employed full-time, lawfully employed part-time and enrolled in school, or enrolled in a community college or other state-registered alternative education program. Such exemption also may be granted to any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 109.550 to 109.565. [Amended by 1965 c.100 270, 1967 c.67 8, 1971 c.494 1, 1973 c.728 1, 1985 c.579 1, 1989 c.619 1]

***Exemptions from compulsory attendance***—OAR 581-21-076

(1) As used in this rule:

(a) "School" means any public school, education service district program, community college, college, university, public alternative program, registered private alternative program, technical or voca-

tional school or training program, or being taught by a parent or private teacher pursuant to ORS 339.035;

(b) "Semiannual" means prior to the next vacation or reentry time in the school year but a minimum of two times per year;

(c) "Full-time work" means employment for 30 or more hours per week;

(d) "Full-time school" means attending an educational program for a period of time defined as one FTE under OAR 581-23-005; enrolling in a community college, college or university for 12 credit hours per term; receiving 20 hours of instruction per week in a technical or vocational school or training program; or being taught an equivalent period of time by a parent or private teacher pursuant to ORS 339.035.

(e) "Emancipated minor" means any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 109.550 to 109.565 (ORS 339.030(5)).

(2) Exemption from compulsory attendance in public schools may be provided to the parent or legal guardian of a child who is 16 or 17 years of age or an emancipated minor, provided the child is:

(a) Employed full time;

(b) Employed part time and enrolled in a school part time; or

(c) Enrolled full time in a school.

(3) The request shall be in writing and include documentation of the child's employment or enrollment status.

(4) In the course of considering a request for exemption from compulsory attendance, a school district shall conduct an interview that shall include, but not be limited to, the following:

(a) Attendance by the child and the parent or legal guardian or the emancipated minor;

(b) Attendance by a school counselor or school administrator;

(c) Consideration of the reasons for the request; and

(d) Review of the following information about the child or emancipated minor:

(A) Credit for graduation,

(B) Grades,

(C) Current handicapping status, if applicable,

(D) Prior handicapping status, if applicable,

(E) Results of standardized tests,

(F) Teacher evaluations,

(G) Counselor appraisal,

(H) Immediate plans,

(I) Short-range and career goals, and

(J) Other relevant information.

(5) If the exemption from compulsory attendance is granted, the school district shall give the child and the parent or legal guardian the following information in writing:

(a) Alternative programs of instruction or instruction combined with counseling are available, as provided in ORS 339.0250 (6) and (7);

(b) The exemption is granted for a limited time, must be renewed on a semiannual basis and will be reviewed by the school district on a certain date; and

(c) The district shall notify the parent of the need to reapply for an exemption by a specific date or return the student to school until the child attains a high school diploma, GED, or the age of 18.

(6) The rule is effective July 1, 1990.

***Teaching by private teacher or parent; notice; examination; effect of failure; appeal***—ORS 339.035

(1) As used in this section, unless the context requires otherwise, "superintendent" means the executive officer of the education service district or the county school district serving the school district of which the child is a resident.

(2) Before a child is taught by a parent or private teacher, as provided in ORS 339.030, the parent or private teacher must notify the superintendent in writing. The superintendent shall acknowledge receipt of the notification in writing and inform the superintendent of the school district of the child's residence. The notification must be received and acknowledged before a child is withdrawn from school and thereafter before the start of each school year.

(3) Children being taught as provided in subsection (2) of this section shall be examined annually in the work covered in accordance with the following procedures:

(a) The State Board of Education shall adopt by rule a list of approved comprehensive examinations which are readily available.

(b) The parent shall select an examination from the approved list and arrange to have the examination administered to the child by a qualified neutral person, as defined by rule by the State Board of Education.

(c) The parent shall submit the results of the examination or the com pleted examination to the superintendent. If a completed examination is submitted, the superintendent shall have it scored and shall notify the parent of the results.

(d) If the superintendent determines after examining the results of the examination that the child is not showing satisfactory educational progress, as defined by rule by the State Board of Education, the superintendent may order the parent or other person having control of the child to send the child to school for the remainder of the school year.

(e) The parent or other person having control of the child may appeal the order to the Superintendent of Public Instruction, whose decision in the matter may be appealed to the circuit court. (1985 c.579 2; 1989 c.619 4)

**ATTENDANCE SUPERVISOR**

***Duties of attendance supervisors***—ORS 339.055—The attendance supervisor when notified of a truancy or unexcused absence shall investigate the truancy or nonattendance at school. If the child is not exempt from compulsory school attendance, the attendance supervisor shall proceed as provided in ORS 339.080 and 339.090 (formerly 339.100).

***Estimates of attendance; irregular attendance; excused absences***—ORS 339.065

(1) In estimating regular attendance for purposes of the compulsory attendance provisions of ORS 339.005 to 339.030 and 339.040 to 339.145, 339.420 and 339.990, the principal or teacher shall consider all unexcused absences. Eight unexcused one-half day absences in any four-week period during which the school is in session shall be considered irregular attendance.

(2) An absence may be excused by a principal or teacher if the absence is caused by the pupil's sickness, by the sickness of some member of the pupil's family or by an emergency. A principal or teacher may also excuse absences for other reasons where satisfactory arrangements are made in advance of the absence.

(3) Any pupil may be excused from attendance by the district school board for a period not to exceed five days in a term of three months or not to exceed 10 days in any term of at least six months. Any such excuse shall be in writing directed to the principal of the school which the pupil attends (1965 c.100 291; 1973 c.728 4; 1987 c.158 57).

***Nonattendance notice to parents and school officials***—ORS 339.080

(1) Except as provided in ORS 339.030, in case any parent or other person in parental relation fails to send any child under the control of the parent or other person to the public school, the attendance supervisor, within 24 hours after notification from the proper authority of the failure, shall give formal written notice in person or by registered or certified mail to the parent or other person. The notice shall state that the child must appear at the public school on the next school day following the receipt of the notice. The notice shall inform the parent or other person that regular attendance at school must be maintained during the remainder of the school year.

(2) At the same time notice is given to the parent or other person, the attendance supervisor shall notify the city superintendent or principal, as suitable, of the fact of the notice. The superintendent or principal shall notify the attendance supervisor of any failure on the part of the parent or other person to comply with the notice (amended by 1965 c.100 282).

***Determination of compliance with notice***—ORS 339.090—The attendance supervisor shall determine whether the parent or other person given written notice of attendance requirements has complied with the notice. If the attendance supervisor determines that the parent or other person has failed to comply, the attendance supervisor, within three days after having knowledge of such failure or after being notified thereof, shall make a complaint alleging the parent or other person's refusal or neglect to send the child to school. The complaint shall be made before a court having jurisdiction over misdemeanors committed within the county in which the parent or other person resides. The judge shall issue a warrant upon the complaint and shall proceed to hear and determine the matters alleged in the complaint in the same manner the judge hears and determines other cases under the jurisdiction of the judge. [Amended by 1965 c.100 283]

**ALTERNATIVE EDUCATION**

***Written information on alternative program required***—ORS 339.250 (6) & (7)

(6) A school district board shall consider and propose to the pupil prior to expulsion or leaving school, and document to the parent, legal guardian or person in parental relationship, alternative programs of instruction or instruction combined with counseling for the pupil that are appropriate and accessible to the pupil in the following circumstances:

(a) When a pupil is expelled pursuant to subsection (4) of this section;

(b) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with a pupil;

(c) When it has been determined that a pupil's attendance pattern is so erratic that the pupil is not benefiting from the educational program; or

(d) When a parent or legal guardian applies for a pupil's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (5).

(7) Information on alternative programs provided under subsection (6) of this section shall be in writing. The information need not be given to the pupil and the parent, guardian or person in parental relationship more often than once every six months unless the information has changed because of the availability of new programs.

***Definition of Alternative Education Program***—ORS 339.605—As used in ORS 339.605 to 339.635, "alternative education program" means a school or separate class group designed to assist students to achieve the goals of the curriculum in a manner consistent with their learning styles and needs (1987 c.675 1).

***Goals; district responsibility; rules***—ORS 339.615

(1) In implementing alternative education programs, district school boards shall maintain learning situations that are flexible with regard to environment, time, structure, and pedagogy.

(2) Students participating in alternative education programs are considered to be the responsibility of the resident district for purposes of ORS 332.072.

(3) The State Board of education by rule shall define the accountable activities and allowable credit for these activities in alternative education programs (1987 c.675 2).

***Effect of failure to propose alternative programs***—ORS 339.640

(1) The Superintendent of Public Instruction shall find a school district to be efficient within the meaning of ORS 327.103 if the district fails to cause the proposal of alternative programs to be made under ORS 339.250 (6) or (7).

(2) The failure to cause the proposal of alternative programs shall not be grounds for a civil action against the school district (formerly 339.255).

***District information for parents and students on alternative education programs***—OAR 581-21-071

(1) The following definitions apply to OAR 581-21-071:

(a) "Erratic attendance" means the student is frequently absent to the

degree that he/she is not benefiting from the educational program.

(b) "Notification" means written notice, by personal service or certified mail, to the parent or guardian and student as required by ORS 339.250 (6).

(2) District school boards shall adopt policies and procedures for notification of students, parents, and guardians of the availability of alternative programs. The notification shall include referrals only to alternative programs which are registered with the Oregon Department of Education. This notification shall be provided in following situations:

(a) upon the occurrence of a second or any subsequent occurrence of a severe disciplinary problem within a three-year period;

(b) when the district finds a student's attendance pattern to be so erratic that the student is not benefiting from the educational program;

(c) when the district is considering expulsion as a disciplinary alternative;

(d) when a student is expelled pursuant to subsection (3) of ORS 339.250; and

(e) when the student or the student's parent or legal guardian notifies the district of intent to withdraw from the program as provided under ORS 339.250 (7).

(3) The notification must include but is not limited to the following:

(a) student action which is the basis for consideration of alternative education;

(b) listing of alternative programs available for this student for which the district would provide financial support in accordance with ORS 339.253 except that when notice is given in accordance with Section (2)(e) of this rule the district shall not be obligated to provide financial support;

(c) the program recommended for the student based on student's learning styles and needs; and

(d) procedures for enrolling the student in the recommended program.

(4) The district shall inform all parents or guardians of the law regarding alternative education and educational services available to students by such means as a statement in the student/parent handbook, notice in the newspaper, or an individual letter to a parent.

(5) District school boards shall adopt a procedure for parents or guardians to request establishment of alternative programs within the district.

(6) District school boards shall not approve the enrollment of a pupil in a private alternative program unless the private alternative program meets all requirements of OAR 581-21-045.

***Accountable activities for alternative education programs***—OAR 581-23-008—Accountable activities for purposes of ORS 339.253 are defined as one or more of the following as approved by the school district by contract:

(1) Tutorial instruction;

(2) Small group instruction;

(3) Large group instruction;

(4) Personal growth and development instruction;

(5) Counseling and guidance;

(6) Computer assisted instruction;
(7) Vocational training;
(8) Cooperative work experience and/or supervised work experience;
(9) Instructional activities provided by institutions accredited by the Northwest Association of Schools and Colleges;
(10) Supervised community service activities performed as part of the instructional program; and
(11) Supervised independent study in accordance with a student's educational goals.

**CHILDREN WITHIN JURISDICTION OF JUVENILE COURT**

***Children within jurisdiction of juvenile court***—ORS 419.476

(1) The juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and:

(a) who has committed an act that is a violation, or that if done by an adult would constitute a violation of a law or ordinance of the United States or a state, county, or city; or
(b) who is beyond the control of the person's parents, guardian, or other person having custody of the person; or
(c) whose behavior, condition, or circumstances are such as to endanger the welfare of the person or the welfare of others; or
(d) who is dependent for care and support on a public or private child-caring agency that needs the services of the court in planning for the best interest of the person; or
(e) either the person's parents or any other person having custody of the person have abandoned the person, failed to provide the person with the support or education required by law, subjected the person to cruelty or depravity or to unexplained physical injury, or failed to provide the person with the care, guidance and protection necessary for the physical, mental or emotional well-being of the person; or
(f) who has run away from the home of the person; or
(g) who has filed a petition for emancipation pursuant to ORS 109.550 to 109.565, 419.710 and this section.

(2) The court shall have jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a child.

(4) The court shall have no further jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 109.550 to 109.565 [Subsection (1) enacted as 1959 c.432 2; subsection (3) enacted as 1959 c.432 3 (2); 1963 c.496 1; 1971 c.451 17; 1977 c.525 6; 1983 c.338 926].

# COMMUNITY RESOURCES

Information about the commmunity agencies described in this section was obtained by the Linn-Benton ESD for use by school personnel within the ESD's boundaries. The purpose of the Community Resources section is to facilitate collaboration that might assist in dealing with a crisis situation.

For school personnel in other districts, this section can serve as a guide for the kinds of agencies that may be contacted in their own communities. For additional guidelines about initiating collaboration on attendance services with agencies in your community, see *Volume 1: Introduction and Resources.*

**INDEX**

Attendance Officer—Linn Benton ESD
Linn County Youth Service Team
Linn County District Attorney's Office
Linn County Juvenile Department
Children's Services Division: Linn County
Oregon Department of Education

## ATTENDANCE OFFICER, LINN-BENTON ESD

*Attendance Officer*: Royal Harger
*Address*: 905 4th Avenue SE
Albany, OR 97321
*Phone*: 000-0000

*Specific Services Provided in Relation to Attendance*: The attendance officer of Linn-Benton Education Service District provides four categories of service to constituent school districts: technical assistance, informal parent contact, case management, and investigations leading to legal intervention.

*Technical Assistance*: The attendance officer provides consultation to school staff in relation to the following:

- Attendance laws
- Best practices with regard to encouraging regular school attendance
- Legal procedures in truancy cases
- Procedures involving exemptions from compulsory attendance such as home schooling

*Informal Parent Contact*: The attendance officer, upon school request, contacts parent(s) or guardian(s) of nonattending students via letter. The letter informs them of the school's concern and referral to the attendance officer. It also outlines the attendance laws and clarifies the expectation of their compliance with such laws.

*Case Management*: The attendance officer provides case management services for those students referred through the Youth Service Team who are determined by the team as having truancy the major presenting problem. The attendance officer will assume the leadership for coordination and collaboration of services in these cases.

*Investigations*: The attendance officer will issue a formal notice of truancy and will subsequently make a determination as to the compliance by the parents or guardians in sending their child to school. If noncompliance is

found, further investigation will be done to determine if the child is beyond the control of the parent or guardian; if the child's behavior, condition, or circumstances are such as to endanger the child's welfare or the welfare of others; or if the parent or guardian is negligent in sending the child to school.

Depending on the results of the investigation, a report to the district attorney may be filed.

For a more thorough description of the service delivery process of the attendance officer, refer to pages 22 through 24.

**LINN COUNTY YOUTH SERVICE TEAMS**

*Contact Persons*:

Albany YST: Cliff Hartman, 000-0000
Lebanon YST: Jan Silverio, 000-0000
Sweet Home YST: Robin Eicks , 000-0000
Santiam YST: Kay Pendleton, 000-0000
Central Linn YST: Ernie Paterson, 000-0000
County YST Coordination: Judi Edwards, 000-0000

*Specific Services Provided in Relation to Attendance*: Youth Service Teams are designed to provide interagency cooperative collaboration between schools, social service agencies, law enforcement agencies, and other relevant community resources in Linn County. There are five YST's to serve all regions in Linn County. Their purpose is to enhance the quality of services to multineeds youth and their families.

Through students meeting with representatives from a variety of agencies, information is shared, alternatives are explored, and a plan of action is developed to meet students' identified needs.

A referral to the YST may be appropriate for truant students when the truancy is a symptom of other problems for which a community level intervention plan would be valuable. The attendance officer is a member of the YST and would be able to give input in the development of a plan.

The attendance officer can also provide case management services for a limited number of families once the student has been referred to the YST. If the YST determines that truancy is a primary issue and subsequently includes case management as part of the community action plan, such services can be provided by the attendance officer.

**LINN COUNTY DISTRICT ATTORNEY'S OFFICE**

*District Attorney*: Jason Carlile
*Address*: PO Box 100
Albany, OR 97321
*Phone*: 000-0000

*Specific Services Provided in Relation to Attendance*: School truancy cases involving Linn County schools are referred to the district attorney's office by the attendance officer of the Linn-Benton Educational Services District. Cases referred directly from the affected school are not accepted.

Two legal mechanisms are available to obtain compliance with the law. The first is criminal prosecution pursuant to ORS 339.020. The statute provides that "every person having control of any child between the ages of seven and eighteen years who has not completed the twelfth grade is required to send

such child to and maintain such child in regular attendance at a public full-time school during the entire school term." Violation of that statute is punishable, upon criminal conviction, by a fine of not more than $100 or by imprisonment in the county jail for not more than thirty days. ORS 339.990.

Criminal prosecution under this statute triggers several rights for the accused. Those rights include, but are not limited to: the right to an attorney, including a court-appointed attorney; the right to a jury trial; and, the right to have the charges proved "beyond a reasonable doubt." Further, the State must prove that the parent acted with a criminal "culpable mental state," ORS 161.115. Therefore, the State must prove beyond a reasonable doubt, that the parent acted either intentionally, knowingly, recklessly, or with criminal negligence.

In practical terms, a thorough investigation must be done in each case and evidence sufficient to meet the burden of proof found in relation to each of the following elements. First, the crime occurred in Linn County. Second, the person charged has "control" of the child. Third, the child has not been in "regular attendance" at school. Fourth, the person in control acted with some culpable mental element that is frequently referred to as "willfulness."

The final element has factors that are difficult to prove, such as: the age and relative size of the child, the parent's physical ability to control the child, parental efforts to get the child to school, availability of transportation, parental knowledge of the law's requirements, and whether the child "starts off" for school and then takes a "detour" that is unknown to the parent. All these factors must be carefully investigated, because the mere fact that the child is not in school is *not* enough to prove the crime.

The second legal mechanism is juvenile court jurisdiction based upon either the student being "beyond parental control" (ORS 419.476(1) (b)) or the parent failing to provide for the child's education (ORS 419.476(1)

**LINN COUNTY JUVENILE DEPARTMENT**

*Agency Director*: Tom Johnson
*Address*: 104 4th Avenue SW
Albany, OR 97321
*Phone*: 000-0000

*Specific Services Provided in Relation to Attendance*: Truancy and related attendance problems alone are not a basis for juvenile court jurisdiction. However, if teachers or counselors believe that poor attendance by a student is a sign of a youth being beyond that control of his/her parent, that belief could form the basis for juvenile court intervention.

A youth referred to the Juvenile Department for "being beyond parental control" would go through an intake process. If it was determined that the student was beyond the control of his parents, he would be eligible for a range of supervisory and rehabilitation services.

A related basis for Juvenile Court jurisdiction would be under a neglect or "own welfare" allegation. This would probably apply more for young children. Elementary school teachers who noticed that a child was failing to attend school on a regular basis may want to refer the matter to the Juvenile Department for a preliminary inquiry regarding neglect. As in cases of "be-

yond control," if nonattendance can be viewed as a symptom of something larger, in this case, "own welfare" (neglect), then there is a basis for Juvenile Court/department involvement.

Finally, Juvenile Court jurisdiction based on findings of "beyond parental control" or "own welfare" are not the equivalent of a criminal law violation. Therefore, children found under the jurisdiction of the Juvenile Court for either of these allegations are not eligible for placement in detention or commitment to the state training schools.

**CHILDREN'S SERVICES DIVISION: LINN COUNTY**

*Agency Director*: Art Kennedy
*Address*: 118 SE 2nd
Albany, OR 97321
*Phone*: 000-0000

*Specific Services Provided in Relation to Attendance*: A primary focus of Children's Services Division (CSD) in the local community is the protection of children. Although a child's consistent attendance at school is an important educational and legal issue, truancy from school is not, by itself, considered by CSD to be a child protection issue. A child's nonattendance at school is a significant matter which should be dealt with by the school district personnel and, in extreme cases, by the local juvenile department and the district attorney's office. Unless there are other issues involved with the truancy that appear to indicate the possibility of the child's abuse or neglect by his/her caretakers, CSD will not provide services unless a family specifically requests them.

However, if school staff wish to consult on the circumstances associated with a truant child, the staff person should call the CSD office and ask to speak with a caseworker. Once the caseworker has had the opportunity to discuss the school person's concerns, a decision will be made regarding whether or not the referral calls for a response by the agency. If the caseworker concludes that there are sufficient grounds under agency policy to warrant an investigation, an assessment will be initiated within seven days of the referral unless, of course, the child appears to be in imminent danger, in which case the caseworker will respond immediately.

If, at any time, a school employee has any questions or concerns regarding the referral of a child to CSD for services, that person is encouraged to discuss his/her issues with the caseworker involved, the casework supervisor, or the branch manager.

**OREGON DEPARTMENT OF EDUCATION**

*Agency Director*: Norma Paulus
*Address*: 700 Pringle Parkway SE
Salem, OR 97310-0290
*Phone*: 000-0000

*Specific Services Provided in Relation to Attendance*: The Oregon Department of Education provides technical assistance regarding attendance requirements and the requirements to educate all eligible students.

For questions related to legal obligations, contact Kathryn Murdock, Director of Legal Service, at 373-7714. For questions related to Alternative Education Programs, contact Leon Fuhrman, Specialist, Student Services, at 000-0000.

## Footnotes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IN

C R I S I S

The *At-Risk Youth in Crisis* Handbook Series has been designed to promote inter-agency agreement on procedures for schools to follow in managing crisis situations with at-risk students. *Volume 1: Introduction and Resources* explains the rationale for the Handbook, tells how it was developed, and guides school districts in adapting the Handbook to meet their own needs. Volume 1 also provides resources on the general subject of collaboration between schools and social service agencies.

Subsequent volumes deal with specific crisis issues: suicide, child abuse, substance abuse, teen parents, school attendance, and so forth. Each volume suggests guidelines for school staff to follow as they respond to immediate crisis situations. In addition, each volume presents long-term prevention strategies, staff and student training programs, policy development guidelines, and other practical materials.

A theme running through all these volumes is the need for interagency cooperation. Schools do play a critical role in preventing and intervening in crisis situations. However, they can neither assume total responsibility for resolving crises, nor abdicate responsibility on grounds that such problems are outside the realm of the educational focus of the school.

A comprehensive, integrated approach, in which schools, parents, and community agencies cooperate and collaborate, is absolutely essential to prevent these problems from occurring and to intervene at the earliest possible moment when they do occur.

This Handbook serves as a model for both content (substantive guidelines for responding to particular crisis situations) and process (procedures for entering into productive collaborative relationships between schools and social service agencies).

By discussing the crisis-response guidelines with the community social service systems, school district personnel can clarify and delineate their own responsibility from community responsibility. Ultimately, the aim of the Handbook is to promote an arena in which the most appropriate service delivery can occur in the school and the community.

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